

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)
)
FRED D. RISSER, M.D.) CONSENT AGREEMENT
)
Complaint Nos. CR12-51, CR14-95,)
CR14-106)

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed against the license to practice as a physician in the State of Maine held by Fred D. Risser, M.D. The parties to the Consent Agreement are: Fred D. Risser, M.D. ("Dr. Risser"), the Board of Licensure in Medicine ("the Board") and the Office 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.

FACTS

1. The Board first issued Dr. Risser a license (MD14652) to practice as a physician in the State of Maine on December 16, 1997. Dr. Risser specializes in psychiatry.
2. In July 2009, Patient 1, a 30-year old female, began treatment with Dr. Risser on a weekly basis at his private practice in Bangor, Maine.
3. Beginning in February 2010, Patient 1 was treated by Dr. Risser at Community Health and Counseling Services in Ellsworth, Maine.
4. While Patient 1 was a patient of Dr. Risser, Dr. Risser drove her to the pharmacy in his personal vehicle, advocated for her while she was incarcerated in jail, deposited money into her jail bank account, allowed her to store personal property at his residence, and allowed her access to his residence when he was not present.
5. On February 7, 2012, the Board received a report that Dr. Risser had committed

boundary violations with Patient 1. The Board docketed this matter as Complaint CR12-51.

6. On June 11, 2013, the Board held an informal conference with Dr. Risser regarding Complaint No. CR12-51 to discuss the following issues: (1) medical record documentation; (2) prescribing practices; and (3) physician-patient boundary issues. At the conclusion of the informal conference, Dr. Risser agreed to voluntarily complete continuing medical education courses in medical record keeping, medical ethics, boundaries and professionalism, and psychopharmacology. In addition, Dr. Risser agreed to transfer Patient 1's care to another psychiatrist. Dr. Risser subsequently provided the Board with documentary proof of his completion of the continuing medical education courses.

7. In April 2014 Community Health and Counseling Services issued Dr. Risser a written warning for failing to follow medication prescribing protocols by prescribing benzodiazepines to patients on opioid replacement therapy.

8. In 2014 Patient 2, a 51-year old female was a patient of Dr. Risser at Community Health and Counseling Services in Ellsworth, Maine.

9. On April 3, 2014, Dr. Risser saw Patient 2 speaking with someone in the parking lot at the rear of the Ellsworth facility just prior to her scheduled appointment with him. Dr. Risser then went downstairs and outside through the facility's rear exit and called out to Patient 2 reminding her of her appointment with him. He then led her inside through the facility's rear entrance, which could only be accessed by staff with a key and followed her up the stairs.

10. By letter dated May 19, 2014, Community Health and Counseling Services notified the Board pursuant to Title 24 M.R.S. § 2506 that it had terminated Dr. Risser's employment on May 15, 2014, as a result of his unprofessional conduct. The Board docketed this matter as Complaint CR14-106.

11. On May 23, 2014, the Board received a complaint from Patient 2 alleging professional misconduct by Dr. Risser. The Board docketed this complaint as Complaint No. CR14-95.

12. On February 10, 2015, following its review of all information gathered to date with regard to Complaint Nos. CR12-51, CR14-95, and CR14-106, the Board voted to schedule the matters for an adjudicatory hearing. In addition, the Board authorized its assigned legal counsel to offer this Consent Agreement to Dr. Risser to resolve all of the pending complaints without any further proceedings.

13. Absent Dr. Risser's acceptance of this Consent Agreement by signing and dating it before a notary and mailing it to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before April 30, 2015, the complaints will be scheduled for a consolidated adjudicatory hearing.

ALLEGATIONS

14. While Patient 1 was his patient, Dr. Risser committed boundary violations by improperly:

- a. Soliciting a relationship with her outside of the physician-patient relationship;
- b. Visiting her at her residence;
- c. Purchasing a laptop for her; and
- d. Failing to document in the record that Patient 1 told Dr. Risser that she "loved" him and then failing to clearly and immediately process with the patient.

15. Dr. Risser's progress notes for Patient 1 were deficient as follows:

- a. They failed to identify the nature, duration, and/or procedure code for each

visit;

- b. They lacked sufficient formal and detailed mental status documentation;
- c. They lacked sufficient regular updating of diagnoses; and
- d. They lacked sufficient explanation of the rationale behind changes in medication.

16. Dr. Risser's medication management of Patient 1 was deficient as follows:

- a. He failed to sufficiently document his rationale for prescribing her higher doses of Suboxone;
- b. He prescribed benzodiazepines to her without sufficiently documenting his rationale for the changes and doses prescribed;
- c. He prescribed both Suboxone and benzodiazepines to her; and
- d. He did not initially prescribe her an SSRI medication.

17. While Patient 2 was his patient, Dr. Risser committed a boundary violation by slapping her on the butt when he escorted her up the back stairs to her appointment with him on April 3, 2014.

COVENANTS

In lieu of further proceedings regarding Complaint Nos. CR12-51, CR14-95, CR14-106, Dr. Risser and the Board agree to the following:

18. Dr. Risser admits to the facts as stated in paragraphs 1 to 13 above and neither admits nor denies the allegations stated in paragraphs 14 to 17 above.

19. Dr. Risser, however, concedes and acknowledges that if these matters were to go to hearing there would be sufficient admissible evidence that would allow the Board to find by a

preponderance of the evidence that the Allegations, in fact, occurred, and that the Board hereby makes those findings.

20. Dr. Risser further acknowledges the Board's conclusion that the conduct described in the Facts and Allegations and as found in paragraph 19 above constitutes conduct for which the Board may impose discipline against him pursuant to 32 M.R.S. § 3282-A(2)(F) for engaging in unprofessional conduct by engaging in aberrant behavior that interferes with or is likely to interfere with the delivery of care.

21. Dr. Risser further agrees to accept the following disciplinary action:

a. **Practice Limitation.** Dr. Risser's Maine medical practice shall be limited solely to male patients. Dr. Risser shall neither assess nor treat (including prescribing drugs to) any female patients. **Limited Exception:** For female patients that as of April 23, 2015 are currently prescribed Suboxone and have not already been referred or transferred to another health care provider, Dr. Risser shall have until no later than July 1, 2015, to transition those patients out of his medical practice.

b. **Practice Monitor.** Within thirty (30) days of the effective date of this Consent Agreement Dr. Risser must obtain a practice monitor approved by the Board. The practice monitor shall be an agent of the Board pursuant to Title 24 M.R.S. § 2511. In complying with this section, Dr. Risser shall submit the name and professional credentials of a proposed practice monitor. The Board shall retain the sole discretion to approve or deny any practice monitor proposed by Dr. Risser. Dr. Risser shall provide the approved practice monitor with a copy of this Consent Agreement and any other

documents the Board deems relevant in this case. Dr. Risser shall ensure that the practice monitor notifies the Board, in writing, within ten (10) days of the Board's approval of his/her acceptance of his/her supervisory role. The practice monitor shall meet with Dr. Risser at Dr. Risser's office and shall hold face-to-face meetings with him on a monthly basis, at which time the practice monitor shall choose a random sample of medical record charts of at least ten (10) active patient medical cases/charts/records to review. The practice monitor shall review the charts to determine Dr. Risser's compliance with prescribing quality of care and recordkeeping standards. In addition, the practice monitor shall discuss the cases with Dr. Risser to evaluate Dr. Risser's understanding of the conditions he is treating and his compliance with quality of care and recordkeeping standards. Dr. Risser shall ensure that the practice monitor submits quarterly written reports to the Board on or before the following dates: June 1st; September 1st; December 1st; and March 1st of each year. The written reports shall include but not be limited to the number and types of cases he/she reviewed, medical issues he/she discussed with Dr. Risser, and his/her assessment of Dr. Risser's understanding of the conditions he is treating and his compliance with quality of care and recordkeeping standards. In addition to the quarterly reporting requirement, the practice monitor shall immediately inform the Board if Dr. Risser is unable to meet the applicable standards of medical care and recordkeeping. Dr. Risser shall promptly execute/obtain any and all necessary release forms and/or waivers of confidentiality to allow the Board, Board Investigator, or an

Assistant Attorney General to: (i) obtain copies of any medical or treatment records of concern to the practice monitor; and (ii) contact/communicate with the practice monitor. In the event that the practice monitor discontinues supervising Dr. Risser for any reason, Dr. Risser shall immediately notify the Board. Dr. Risser shall be solely responsible for submitting a replacement candidate to serve as his practice monitor under the terms specified above. Dr. Risser shall be responsible for all costs associated with supervision of his practice and his compliance with the terms and conditions of this Consent Agreement.

- c. **Warning.** As a licensed physician and psychiatrist, Dr. Risser must be aware of the importance of maintaining appropriate physician-patient boundaries, the significance of prescribing combinations of medications, and the importance of appropriate medical record documentation.
- d. **Costs.** Dr. Risser shall be responsible for all costs associated with his compliance with the terms and conditions of this Consent Agreement. In addition, Dr. Risser shall reimburse the Board four thousand three hundred forty-four dollars (\$4,344.00) as the actual costs for the investigation of Complaint Nos. CR12-51, CR14-95, and CR14-106. Dr. Risser shall ensure that he completes the reimbursement to the Board within one (1) year of the effective date of this Consent Agreement.

22. Violation by Dr. Risser 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.

23. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Risser 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.

24. Dr. Risser waives his right to a hearing before the Board or any court regarding all findings, terms, and conditions of this Consent Agreement. Dr. Risser agrees that this Consent Agreement is a final order resolving Complaint Nos. CR12-51, CR14-95, and CR14-106. This Consent Agreement is not appealable and is effective until modified or terminated in writing by agreement of all of the parties hereto.

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

26. 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.

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

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

29. The Board and Dr. Risser agree that no further agency or legal action will be initiated against him by the Board based upon the facts admitted to or found 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 allegations are brought against Dr. Risser 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. Risser's Maine physician license.

30. Dr. Risser 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.

31. Dr. Risser has been represented by M. Thomasine Burke, Esq. regarding Complaint Nos. CR12-51, CR14-95, and CR14-106, and for the purposes of negotiating this Consent Agreement.

32. The effective date of this Consent Agreement shall be the date on which the final signature is affixed to this Consent Agreement.

I, FRED D. RISSER, 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:

1/25/15



FRED D. RISSER, M.D.

STATE OF

MAINE

PENOBSCOT

_____, S.S. (County)

Personally appeared before me the above-named, Fred D. Risser, 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:

4/25/15



NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: JAN 1, 2022


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 5/12/15


MAROULLA S. GLEATON, M.D., Chairman

OFFICE OF THE ATTORNEY GENERAL

DATED: May 12, 2015


MICHAEL MILLER
Assistant Attorney General

Effective Date: May 12, 2015