

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE:)
)
LOWELL I. GERBER, M.D.) ORDER OF IMMEDIATE PARTIAL LICENSE
) SUSPENSION
CR No. 15-12)

On June 9, 2015, the Maine Board of Licensure in Medicine (“the Board”) met and reviewed materials submitted in connection with a complaint filed against Lowell I. Gerber, M.D., license number MD 17412 (“Dr. Gerber”). On the basis of its review of these materials, the Board concludes that the continued ability of Dr. Gerber to practice as a physician in the State of Maine without restrictions constitutes an immediate jeopardy to the health and safety of the public who might receive his medical services, and that it is necessary to immediately suspend his ability to practice medicine without restrictions pending a hearing in order to adequately respond to this risk.

This suspension is issued pursuant to 5 M.R.S. § 10004(3). Dr. Gerber’s ability to practice medicine is suspended in the following specific ways: (1) He may not practice medicine on female patients without the presence of a female chaperone; and (2) He may not practice medicine out of his home. This suspension is effective immediately upon issuance of this Order for a thirty (30) day period ending on July 9, 2015, at 11:59 p.m., pending further Board action at an adjudicatory hearing, which will be scheduled shortly. A formal notice of hearing will be transmitted, which will outline the issues and procedures for that hearing.

PRELIMINARY FINDINGS

Specifically, the Board preliminarily finds for purposes of this Order and pursuant to the materials submitted as follows:

1. On February 3, 2015, the Board received a complaint from a woman (“the patient”) who alleged that shortly after she took her daughter to Dr. Gerber for alternative treatment for type 1 diabetes, Dr. Gerber convinced her to become a patient of his as well. The patient further alleged that after two face to face meetings, Dr. Gerber sent her an email proposal for how he wanted to work with her. He offered the patient a discounted fee in exchange for helping him develop printed materials for his practice and also with a book that he was working on. The patient repeatedly requested that Dr. Gerber formalize the work relationship with a contract, which did not occur. The patient alleged that Dr. Gerber’s medical office is in his private home at the end of a long secluded driveway, and that during his first physical examination of her, he did not use gloves and that his hand grazed the side of her breast and pubic area. He does not have any staff assisting him in his office. He stared at her intensely and stressed that he could be a “mentor.” In subsequent appointments, Dr. Gerber’s interactions escalated to include hugging, massaging, and then eventually engaging in unprotected sexual intercourse. In her complaint, the patient described four specific instances of unprotected sexual intercourse. Dr. Gerber emailed and called the patient regularly, and requested that she travel or attend meetings with him. He made sexually suggestive comments, sent suggestive videos embedded in emails, and provided information regarding his dissatisfaction with his spouse/partner. She alleged that once the relationship became sexual, Dr. Gerber began to isolate and threaten her, told her not to contact other physicians and to delete email and phone

communications from him. The relationship ended when the patient was confronted by her husband.

2. Dr. Gerber admitted in his response to the Board that he had multiple relationships with the patient and that she was a patient before she was a "business associate." He further admitted that he had a "brief" sexual relationship with her. He also acknowledged that the patient indicated on her pre-visit medical history form that she was undergoing a stressful situation managing her daughter's health condition. His office is in his private residence. Although denying many of the other allegations, Dr. Gerber admitted that he did suggest that the patient delete emails that may anger her husband.

For the purposes of this Order of Partial Suspension and subject to holding the aforementioned full adjudicatory hearing on this matter to determine if any violations have actually occurred, the Board finds that the actions of Dr. Gerber constitute immediate jeopardy of similar behavior occurring in the future and that delaying imposition of a partial suspension of his ability to practice medicine on female patients without a chaperone or in his home until holding a hearing would not adequately respond to this known risk. It is of great concern that Dr. Gerber provides unchaperoned medical services in his private residence, that the patient alleged that Dr. Gerber touched her inappropriately during medical examinations in his home office, and that he admittedly engaged in sexual relations with a female patient.

The above conduct constitutes violations of the following provisions applicable to Dr. Gerber's license to practice as a physician in the State of Maine:

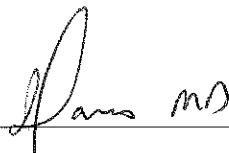
- A. 32 M.R.S. § 32382-A(2)(H) by violating Board Rules Chapter 10 by committing sexual misconduct, including sexual violation(s) and sexual impropriety.
- B. 32 M.R.S. § 3282-A(2)(E)(1) by engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public.
- C. 32 M.R.S. § 3282-A(2)(F) by engaging in unprofessional conduct by violating a standard of professional behavior, including engaging in disruptive behavior, that has been established in the practice of medicine. For purposes of this paragraph, "disruptive behavior" means aberrant behavior that interferes with or is likely to interfere with the delivery of care.

ORDER OF IMMEDIATE PARTIAL SUSPENSION

The Board ORDERS as follows:

Dr. Gerber's ability to practice medicine is suspended in the following specific ways: (1) He may not practice medicine on female patients without the presence of a female chaperone; and (2) He may not practice medicine out of his home. This suspension is effective immediately upon issuance of this Order in that on June 9, 2015, for a thirty (30) day period ending on July 9, 2015, at 11:59 p.m. pending further Board action at an adjudicatory hearing, which shall be scheduled shortly.

Dated: June 9, 2015



David D. Jones, MD, Acting Chairperson