

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT AGREEMENT  
JAMES GROSSMAN, P.A. )  
Complaint No. CR15-146 )

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to render medical services in the State of Maine held by James Grossman, P.A. The parties to the Consent Agreement are: James Grossman, P.A. ("Mr. Grossman"), 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. Mr. Grossman has held a license to render medical services in the State of Maine since March 16, 1977 (license number PA44). Mr. Grossman has no prior disciplinary actions in Maine.

2. On August 21, 2015, the Board received a report from a Nurse Practitioner regarding a patient under the Nurse Practitioner's care who had been receiving a tapering dose of narcotics. The Nurse Practitioner alleged that a check of the patient's prescription monitoring report ("PMP") indicated that Mr. Grossman had recently prescribed both zolpidem and oxycodone to the patient who was not under his care. The Nurse Practitioner further alleged that she called Mr. Grossman, and he told her that the patient was a friend, that she is suffering, and that she "appeals to him." She alleged that he also

acknowledged that he was aware that the patient likely had an opioid use disorder.

3. On August 22, 2015, Mr. Grossman filed an application to renew his license. On his application he responded “yes” to a question which asked “have you furnished prescription drugs to or written a prescription for anyone without having a legitimate physician-patient relationship?” On his application he also answered “yes” to a question which asked whether he has “prescribed any controlled substances for yourself or family/household members?” He provided the following explanation for those responses: “I renewed a prescription for zolpidem for my domestic partner in the past. I was NOT adjudicated in any proceedings. I provided a prescription for pain medication to a friend while she was awaiting enrollment into my office practice group. I have not been adjudicated in any proceedings.”

4. A review of the patient’s PMP records indicated that Mr. Grossman had prescribed oxycodone to the patient on 4 occasions during May through August 2015, zolpidem on one occasion in July 2015, and hydrocodone-acetaminophen 10-325 on one occasion in January 2015.

5. On September 9, 2015, the Board received copies of the patient’s medical records from the Nurse Practitioner. The records showed that the Nurse Practitioner was treating the patient for pain. In March 2015, the patient was hospitalized for pneumonia with acute respiratory failure and acute delirium, and with suspicion that the patient had been abusing her opioid medication intranasally. The medical records reflected that the patient

had a "boyfriend" who was a physician assistant and that he provided the patient with a "Z-Pak" just prior to her hospitalization. He was present when the Nurse Practitioner visited the patient in the hospital on March 24, 2015. In April 2015, the Nurse Practitioner initiated a controlled taper of medications to wean the patient off opioids.

6. Following review of the above information, the Board initiated a complaint on October 20, 2015. The Board docketed that complaint as CR15-146, and sent it to Mr. Grossman for a response.

7. By letter dated December 18, 2015, Mr. Grossman responded to the complaint. In his response, Mr. Grossman admitted that he prescribed zolpidem and oxycodone to "a friend" who was not a patient of his. Mr. Grossman stated that he met the patient through an online dating site, but that the relationship had never been sexual. He discussed their relationship and acknowledged that he had also prescribed a "Z-Pak" for her in the spring, and that he visited her when she was hospitalized. He reported to the Board that the patient had recently changed her care to the Nurse Practitioner who was cutting her medication "way back." The patient complained to him that one medication that was changed made her feel excessively sedated, and that she had nausea and was vomiting. Mr. Grossman felt that she was suffering the effects of rapid withdrawal. He stated that she "begged me to give her some medication to tide her over until we could get her into our practice and slowly taper her off the narcotics. [He] prescribed her what [he] considered an equianalgesic dose of oxycodone." He reported that the patient did eventually

establish care with his practice, but there had been obstacles. Mr. Grossman admitted to the Board that his “actions were wrong” and this was a “major lapse of judgment on [his] part.”

8. The patient’s records were received by the Board and reflect that she initially was seen by Mr. Grossman to establish care on October 8, 2015. In addition, patient records for 5 randomly selected patients were also received and reviewed by the Board.

9. Pursuant to 32 M.R.S. § 3282-A(2)(E), the Board may impose discipline for incompetence. A licensee is considered to have engaged in incompetence if the licensee has engaged 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, or that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed.

10. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established for the practice of medicine.

11. On April 12, 2016, the Board reviewed CR 15-146 and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Mr. Grossman this Consent Agreement to resolve this matter without further proceedings. Absent Mr. Grossman’s acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maine Board of

Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137  
on or before May 28, 2016, the matter will be scheduled for an adjudicatory  
hearing.

#### COVENANTS

12. Mr. Grossman admits the facts stated above and agrees that such  
conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-  
A(2)(E) and (F), for engaging in conduct that evidences a lack of ability or  
fitness to discharge the duty owed by the licensee to a patient and for  
unprofessional conduct.

12 As discipline for the foregoing conduct, Mr. Grossman agrees to  
accept the following:

a) A REPRIMAND for engaging in unprofessional conduct by  
prescribing controlled substances outside an established physician/patient  
relationship.

b) A LICENSE PROBATION for no less than ten (10) months  
during which the following is required:

1) Mr. Grossman shall within four (4) months of the  
effective date of this Consent Agreement take an in person continuing medical  
education course of not less than twenty (20) hours in length approved by the  
Board Secretary or his designee on the subject of professional boundaries and  
submit written evidence of course completion to the Board;

2) Mr. Grossman shall within four (4) months of the  
effective date of this Consent Agreement take an in person continuing medical

education course of not less than six (6) hours in length approved by the Board Secretary or his designee on the subject of prescribing opioids and the use of universal precautions and submit written evidence of course completion to the Board; and

3) Mr. Grossman is not currently rendering medical services in Maine. Upon commencement of the rendering of medical services in Maine, Mr. Grossman shall notify the Board in writing of any practice location(s) within ten (10) calendar days. Six (6) months after the commencement of rendering medical services in Maine and at least six (6) months after the completion of the continuing medical education courses required in subparagraphs 1 and 2 above, Mr. Grossman shall submit at least five (5) patient charts as requested by the Board for review. Following review of the patient charts, the Board shall determine based upon the review, and in its sole discretion, whether to terminate probation or to continue probation for a specified period, and whether to impose any additional requirements.

c) A CIVIL PENALTY in the amount of One Thousand Dollars (\$1,000.00), payment of which shall be made by certified check or money order made payable to "Treasurer, State of Maine," and remitted to Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, within thirty (30) days of the execution of this Consent Agreement.

13. Violation by Mr. Grossman 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.

14. This Consent Agreement is not appealable and is effective until modified or rescinded in writing by the parties hereto.

15. The Board and the Department of the Attorney General may communicate and cooperate regarding Mr. Grossman 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-A.

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

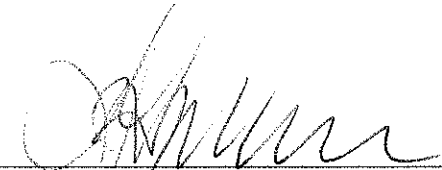
18. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

19. Mr. Grossman 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.

20. Mr. Grossman has been represented by Sandra L. Rothera, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

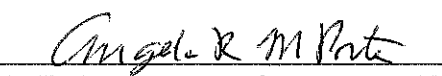
21. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Consent Agreement.

I, JAMES GROSSMAN, P.A., 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: 5/23/2016   
JAMES GROSSMAN, P.A.

STATE OF Maine  
Waldo, S.S.

Personally appeared before me the above-named James Grossman, P.A., 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: 5/23/16   
NOTARY PUBLIC/ATTORNEY  
Angela R M Porter  
MY COMMISSION ENDS: 2/22/21



DATED:

May 26, 2016

  
SANDRA L. ROTHERA, ESQ.  
Attorney for James Grossman, P.A.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:


5/16/16

  
MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

June 16, 2016

  
MICHAEL MILLER  
Assistant Attorney General

Effective Date:

June 16, 2016