

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) CONSENT AGREEMENT
ROBERT J. WEISS, M.D.)
Complaint No. CR14-45)

This document is a Consent Agreement, effective when signed by all parties, regarding disciplinary action against the license to practice medicine in the State of Maine held by Robert J. Weiss, M.D. The parties to the Consent Agreement are: Robert J. Weiss, M.D. (“Dr. Weiss”), 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. Weiss has held a license to practice medicine in the State of Maine since May 2, 1985 (license number MD11892), and specializes in cardiovascular diseases and internal medicine.

2. On March 17, 2014, the Board received a complaint from the daughter of a patient of Dr. Weiss. In her complaint, the patient’s daughter alleged that Dr. Weiss committed unprofessional conduct when he communicated with family members during the patient’s hospitalization in February 2014, including that he violated the American Medical Association ethics opinion 9.045, Physicians with Disruptive Behavior. The complainant alleged that when asked by a family member what led to the patient’s hospitalization in critical condition, Dr. Weiss responded “you should just be lucky he is not brain dead like my patient next door who is half his age.” She

further alleged that Dr. Weiss was irritable, agitated, and hostile in response to inquiries regarding the medication that had been provided by Dr. Weiss and whether the patient had an adverse reaction to it. She also reported that when asked questions by family members, including the patient, he said “this little question and answer session is done” or “this is not a question and answer session-I’m done here!” The Board docketed that complaint as CR14-45, and sent it to Dr. Weiss for a response.

3. By letter dated April 22, 2014, Dr. Weiss responded to the complaint. In his response, Dr. Weiss denied the allegations contained in the complaint. Dr. Weiss reported that the patient was examined by Dr. Weiss in his office and at that time was experiencing rapid atrial fibrillation. Dr. Weiss offered to take the patient to the hospital for a cardioversion, but the patient refused. As an alternative, Dr. Weiss prescribed a beta blocker medication. Apparently after taking that medication, the patient collapsed resulting in his hospitalization. Dr. Weiss reported to the Board that upon learning of the patient’s hospitalization he went to the hospital. He recalled telling the patient’s wife that the patient was fortunate that he was “coming around” and that there was no sign that he was as bad off as they had initially worried about or as bad off as a patient in another room. Dr. Weiss indicated that he referenced the other patient as a positive point and an affirmation to the patient’s wife.

After denying making statements as alleged in the complaint, Dr. Weiss told the Board that his recollection was that he used his usual technique for

answering questions which was that he went around the room in a circle fielding questions from the family, and that each time a question was answered he went around again to see if there were additional questions. Dr. Weiss further reported that the daughter of the patient was somewhat verbally aggressive with him and that her first words to him were along the lines of him hurting or attempting to kill her father.

4. The patient's daughter filed a reply by letter dated May 4, 2014. In her reply, she questioned whether Dr. Weiss was confusing the interactions with her family with that of another patient and stated that she was "completely shocked" by his response to the complaint. She denied Dr. Weiss's version of the events as stated in his response and reiterated the complaint allegations. She further denied being verbally aggressive with Dr. Weiss.

5. Board investigation revealed that the patient had no recall of the events in the hospital, and his wife stated to the Board Investigator that Dr. Weiss was very unprofessional, extremely moody, and acted like he did not have time for them. In response to Board questions sent to Dr. Weiss, Dr. Weiss responded that did not agree that he acted in the manner described by the patient's wife and reiterated his recollection of their interactions, apologizing if his presentation was misinterpreted. Dr. Weiss also explained his office note for the patient for the day in question and again stated that the patient had refused to meet Dr. Weiss at the hospital that afternoon to undertake a cardioversion. In light of the patient's refusal, Dr. Weiss explained that he set up a phone call with the patient for 7 am the next morning to

follow-up. He further explained that the patient had bronchitis, and was not wheezing. He felt that there was minimal risk in using a beta blocker medication which he felt was necessary because the patient refused to go to the hospital.

6. On December 5, 2014, the Board received a report from an independent outside reviewer of Dr. Weiss's treatment of the patient. Following review of the patient records, the reviewer noted that during the February 2014 office visit, Dr. Weiss evaluated the patient and noted that he was still in atrial fibrillation with a rapid response. According to the reviewer, "the patient was complaining of shortness of breath and physical examination did reveal some wheezing but no rales. The recommendation at the end of the examination indicated that Dr. Weiss was going to place the patient on nadolol to slow his rate and that he was considering cardioversion the next day if the patient remained in atrial fibrillation. The patient's wheezing was felt to be due to a viral syndrome and there was no indication that the patient was felt to be in congestive heart failure."

The reviewer noted that Dr. Weiss's reported conversation with the patient in which he recommended that the patient go to the hospital that day for cardioversion and the that the patient refused was not documented in the patient records that he reviewed. The reviewer noted that "the EKG showed quite rapid atrial fibrillation. The patient was already on Cardizem and this clearly was not controlling the patient's [heart] rate. I would have been reluctant to give the patient a prescription for nadolol and have him take that

at home in an unmonitored situation given the fact that he was wheezing at the time of the examination and that his heart rate was as fast as it was with his known cardiac history... If indeed the patient had refused referral to the emergency department for further treatment at that time, the administration of nadolol or any beta blocker would have certainly been considered but I would have wanted to make it very clear in the record that I explained to the patient the risks and benefits of administration of the drug.”

7. On June 9, 2015, the Board held an informal conference with Dr. Weiss. Following the informal conference the Board voted to investigate the matter further.

8. The Board Investigator conducted additional interviews. The patient’s wife’s sister who had gone to the emergency room to meet her sister reported to the Board Investigator that she asked Dr. Weiss, “why did you send a symptomatic patient home?” and he responded that he offered the patient a choice, “go home and take a pill, or go to the hospital and wait for me to arrive.”

9. 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, including engaging in disruptive behavior, that has been established for the practice of medicine. “Disruptive behavior” means aberrant behavior that interferes with or is likely to interfere with the delivery of care.

10. On October 13, 2015, the Board voted to set this matter for an adjudicatory hearing and authorized the negotiation of a proposed consent agreement. On April 12, 2016, and May 10, 2016, the Board reviewed additional investigative information and voted to offer Dr. Weiss this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Weiss'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 July 27, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

11. Dr. Weiss admits the facts stated above and agrees that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. § 3282-A(2)(F), for engaging in unprofessional conduct.

12 Dr. Weiss agrees to accept the following:

A LICENSE PROBATION for at least eighteen (18) months subject to the following terms and conditions:

- a) Dr. Weiss shall only practice medicine in connection with Maine Research Associates;
- b) Dr. Weiss agrees that his only outpatient involvement shall be in connection with his work with Maine Research Associates; and
- c) Dr. Weiss shall engage a physician proctor approved by the Board Secretary to meet with him and the manager of Maine Research Associates monthly to review and evaluate Dr. Weiss's practice and patient/staff interactions. Dr. Weiss shall cause the physician proctor to submit written reports to the Board quarterly, with the first report due on

November 1, 2016. The physician proctor reports shall summarize the monthly reviews and evaluations, and shall identify any concerns or issues with professional interactions or conduct, including any allegations or reports of disruptive behavior. Dr. Weiss understands that the physician proctor will be an agent of the Board pursuant to 24 M.R.S. § 2511. After a period of at least eighteen (18) months from the effective date of this Consent Agreement, Dr. Weiss may request that the Board remove the requirements contained in this subparagraph. Upon receipt of a petition to remove the requirements of this subparagraph, the Board shall review all information received from the physician practice monitor and determine, in its sole discretion, any termination, continuation or modification of such monitoring requirements.

13. Violation by Dr. Weiss 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 Dr. Weiss 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. Dr. Weiss 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. Dr. Weiss has been represented by James F. Martemucci, 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, ROBERT J. WEISS, 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: 6/29/16

Robert J. Weiss
ROBERT J. WEISS, M.D.

STATE OF MAINE

Andrus Coggia, S.S.

Personally appeared before me the above-named Robert J. Weiss, 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: 6-29-16

Louise M. Wotton
NOTARY PUBLIC/ATTORNEY
LOUISE M. WOTTON
Notary Public, Maine
My Commission Expires February 11, 2020
MY COMMISSION ENDS: _____

DATED: 6/30/16

James F. Martemucci
JAMES F. MARTEMUCCI, ESQ.
Attorney for Robert J. Weiss, M.D.

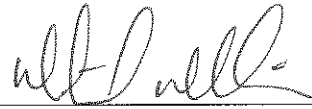
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 7/12/16


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: July 12, 2014


MICHAEL MILLER
Assistant Attorney General

Effective Date: July 12, 2014