

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:) CONSENT AGREEMENT
ELMER H. LOMMLER, M.D.)
Complaint No. CR15-77)

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 Elmer H. Lommler, M.D. The parties to the Consent Agreement are: Elmer H. Lommler, M.D. (“Dr. Lommler”), 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. Lommler has held a license to practice medicine in the State of Maine since July 10, 1979 (license number MD9862), and specializes in internal medicine.

2. On May 22, 2015, the Board received a complaint from a patient of Dr. Lommler alleging that she was prescribed “narcotics in large doses” and got “addicted.” She also alleged that the cost of her office visits went up and that when she left Dr. Lommler’s practice he did not send her medical records to a new provider as requested. The Board docketed that complaint as CR15-77, and sent it to Dr. Lommler for a response.

3. By letter dated September 2, 2015, Dr. Lommler responded to the complaint. In his response, Dr. Lommler explained the care that was provided to the patient and the fees that he charges for office visits. He indicated that the patient's medical records had been sent within two weeks of receiving a signed release. He also reported that the patient was evaluated extensively for her pain complaints and that when the cause for her pain could not be determined, he prescribed a weaning schedule for her opioid prescriptions which she refused to follow. He reported to the Board that the patient came to his practice already on narcotics and that she broke her "pain contract on numerous occasions."

4. On October 13, 2015, the Board reviewed the complaint, Dr. Lommler's response, and the patient's medical records, and voted to further investigate by requesting that Dr. Lommler answers questions relating to his treatment of the patient and his overall approach to prescribing controlled substances and use of universal precautions. By letter dated November 12, 2015, Dr. Lommler responded to the Board questions.

5. Review of the patient's records and a prescription monitoring report for Dr. Lommler raised significant concerns with his controlled substances prescribing and utilization of universal precautions. For example, Dr. Lommler continued to prescribe large doses of hydrocodone-acetaminophen 10-325 tablets to the patient even though her initial laboratory evaluation showed elevation of her liver function studies.

6. On January 12, 2016, the Board reviewed the above information and voted to further investigate and schedule an informal conference to discuss Dr. Lommler's treatment of the patient, his charting and medical recordkeeping, his controlled substances prescribing practices and use of polypharmacy, and utilization of controlled substances universal precautions.

7. On September 13, 2016, the Board held an informal conference with Dr. Lommler. Following the informal conference, the Board voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Lommler this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Lommler'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 October 27, 2016, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

8. Dr. Lommler 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 by violating a standard of professional behavior that has been established for the practice of medicine).

9. As discipline for the foregoing conduct, Dr. Lommler agrees to accept:

A LICENSE PROBATION for a period of time as determined by the Board in its sole discretion during which Dr. Lommler shall comply with the following conditions:

a) Dr. Lommler shall not accept any new patients who require a prescription for a controlled substance after the effective date of this Consent Agreement.

b) No later than six (6) months from the effective date of this Consent Agreement all patients of Dr. Lommler, except patients with metastatic cancer, or patients receiving palliative, end of life or hospice care, shall be reduced to a 100 morphine milligram equivalent ("MME") or less daily dose. Dr. Lommler shall clearly document in the patient's medical record the rationale for any opioid prescription.

c) Six (6) months from the effective date of this Consent Agreement, Dr. Lommler shall only prescribe one (1) benzodiazepine per patient.

d) Dr. Lommler shall only prescribe controlled substances in multiples of seven (7) days of supply.

e) Dr. Lommler shall clearly document in the medical record all treatment plans and rationale for prescribing any controlled substance. He shall also document the use of universal precautions associated with any controlled substance that has been prescribed.

f) Within three (3) months of the effective date of this Consent Agreement, Dr. Lommler shall take a continuing medical education course of not less than thirty-two (32) hours approved by the Board Secretary or Board

Chairperson, or their designee on the subject of pain management and alternatives to controlled substances prescribing which Dr. Lommler shall attend in person. Dr. Lommler shall submit written evidence to the Board of his successful completion of the course within fourteen (14) calendar days thereafter.

g) Six (6) months after the effective date of this Consent Agreement, Board staff shall request no fewer than six (6) patient charts for Board review. Following review of the selected patient charts, the Board in its sole discretion shall determine whether to continue or terminate Dr. Lommler's probation. Upon review, the Board may continue probation and impose any conditions it deems necessary for a specified term.

h) The Board requests that Dr. Lommler seek to obtain a waiver to prescribe buprenorphine within two months of the effective date of this Consent Agreement. Should Dr. Lommler obtain a waiver to prescribe buprenorphine, he shall provide written notification to the Board within fourteen (14) days.

10. Violation by Dr. Lommler 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.

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

12. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Lommler or any other matter relating to this Consent Agreement.

13. 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.

14. 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.

15. 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.

16. Dr. Lommler 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.

17. 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, ELMER H. LOMMLER, 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: 10/25/2016 Elmer H. Lommler M.D.
ELMER H. LOMMLER, M.D.

STATE OF Maine
Penobscot County, S.S.

Personally appeared before me the above-named Elmer H. Lommler, 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: 10/25/16 Kathleen C. Hutchinson
NOTARY PUBLIC/ATTORNEY

Kathleen C. Hutchinson
Notary Public, State of Maine
My Commission Expires: April 11, 2021

MY COMMISSION ENDS: April 11, 2021

STATE OF MAINE BOARD
OF LICENSURE IN MEDICINE

DATED:

11/8/16




MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

November 8, 2016



MICHAEL MILLER
Assistant Attorney General

Effective Date:

November 8, 2016