

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re: ) CONSENT AGREEMENT  
MARK E. CIENIAWSKI, M.D. )  
Complaint No. CR15-163 )

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 Mark E. Cieniawski, M.D. The parties to the Consent Agreement are: Mark E. Cieniawski, M.D. ("Dr. Cieniawski"), 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. Cieniawski has held a license to practice medicine in the State of Maine since June 22, 1993 (license number MD13544), and specializes in internal medicine.

2. On September 9, 2015, the Board received an anonymous online complaint expressing concerns regarding Dr. Cieniawski's "prescribing habits." The anonymous complaint identified 32 patients of Dr. Cieniawski by name and date of birth, and alleged issues related to prescribing of controlled substances including: no controlled substance agreement ("CSA") executed; no urine drug screens ("UDS") conducted; failed urine drug screens with continued prescribing; pill counts not being conducted; no review of patient prescription monitoring program reports ("PMP"); and early prescription medication refills provided.

3. Following receipt of the anonymous complaint, the Board subpoenaed records for twelve (12) patients of Dr. Cieniawski, which were received and reviewed.

4. On October 19, 2015, the anonymous complainant contacted the Board Investigator and identified herself as a nurse practitioner who had previously worked in Dr. Cieniawski's practice. The nurse practitioner provided additional information and stated that she had only identified about half of the patients that there were prescribing issues with. The nurse practitioner stated that she had approached the physicians in the practice with her concerns but was told that the doctors were there to treat pain and while they understood her concerns, they felt the need to help their patients because nothing else worked for them.

5. Upon review of the above information, on December 21, 2015, the Board initiated a complaint against Dr. Cieniawski. The Board docketed that complaint as CR15-163, and sent it to Dr. Cieniawski for a response.

6. By letter dated February 25, 2016, Dr. Cieniawski responded to the complaint. In his response, Dr. Cieniawski identified steps that he took immediately upon learning of the Board's concerns and prior to receiving the Board complaint regarding use of universal precautions and controlled substances prescribing, including identifying areas for improvement. For example, upon review of the medical practice records, he found that random pill counts and urine drugs screens were either not taking place as regularly as they were supposed to or the documentation regarding the precautions was

inadequate. In addition, he reported to the Board that there has “also been a major push to get CSAs [controlled substance agreements] signed and in all applicable patient’s EMRs, and to catch up all patients who have not had a urine drug screen in the past 3 to 6 months.” Dr. Cieniawski also reported that he now uploads a patient’s PMP into the patient’s EMR every time it is accessed.

In addition, Dr. Cieniawski discussed his changed procedures for CSAs. Dr. Cieniawski informed the Board that in his “medical opinion” urine drug screens that are positive for marijuana are not necessarily an automatic violation of the CSA, and his approach is to review the risks of smoking marijuana just as he would with tobacco or alcohol, but not necessarily view it as grounds for discontinuing opiate prescriptions. Dr. Cieniawski reported that he was committed to doing a better job of documenting patient discussions and evaluations. He addressed the specific allegations of the complaint as related to each of the 12 patients identified, and explained the care provided. In doing so, Dr. Cieniawski acknowledged that there were deficiencies either in documentation or maintaining controlled substance prescribing universal precautions. Finally, Dr. Cieniawski reported to the Board that after receiving the complaint he has taken continuing medical education on the topic of controlled substances.

7. 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.

8. Pursuant to 32 M.R.S. § 3282-A(2)(H), the Board may impose discipline for violation of Board statute or rule, including rules regarding the use of controlled substances for treatment of pain that are contained in Board Rules, Chapter 21.

9. On April 12, 2016, the Board reviewed CR 15-163 and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Cieniawski a Consent Agreement to resolve this matter without further proceedings.

10. On January 18, 2017, Dr. Cieniawski reported to the Board that he attended the in depth 24 hour CME course Case Western Intensive Course in Controlled Substance Prescribing, and requested that the Board reconsider its proposed action.

11. On February 14, 2017, the Board considered Dr. Cieniawski's request and proposed this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Cieniawski'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 April 10, 2017, the matter will be scheduled for an adjudicatory hearing.

## COVENANTS

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

13. As discipline for the foregoing conduct, Dr. Cieniawski agrees to accept the following:

a) A REPRIMAND for failure to follow universal precautions in prescribing controlled substances.

b) A LICENSE PROBATION for a period of two (2) years during which the following is required:

1) Within three (3) months of the effective date of this Consent Agreement, Dr. Cieniawski shall provide to the Board copies of the written policies in place at his medical practice for controlled substance prescribing and the use of universal precautions.

2) Within three (3) months of the effective date of this Consent Agreement, Dr. Cieniawski shall retain a Board approved Consultant to monitor Dr. Cieniawski's controlled substance prescribing practices. Dr. Cieniawski shall cause the Consultant to report to the Board on a quarterly basis. In the reports to the Board, the Consultant shall provide a summary of the Consultant's monitoring activities, Dr. Cieniawski's compliance with universal precautions and opioid prescribing standards, and identify any issues related to controlled substance prescribing practices including medical

decision-making or documentation. Dr. Cieniawski understands that the Consultant will be an agent of the Board pursuant to 24 M.R.S. § 2511. Dr. Cieniawski shall permit the Consultant full access to his medical practice, including but not limited to all patient information. After one (1) year of monitoring by the Consultant, Dr. Cieniawski may request that the Board modify or remove the Consultant monitoring requirements contained in this subparagraph. Upon receipt of such request, the Board shall review all information, and in its sole discretion may maintain, modify, or eliminate the requirements of this subparagraph for the remaining period of probation.

3) Dr. Cieniawski shall submit written evidence of course completion for his attendance as reported to the Board in the 24 hour CME course Case Western Intensive Course in Controlled Substance Prescribing within two (2) weeks of the effective date of this Consent Agreement.

4) Dr. Cieniawski agrees that at any time the Board may request copies of patient charts for review. Upon receipt of a written request from the Board for selected patient charts, Dr. Cieniawski shall promptly provide copies as requested.

5) Dr. Cieniawski acknowledges that while this Consent Agreement is in effect he must directly communicate with the Board or Board staff and has the obligation to respond to any request for information or documentation within the timeframe specified or requested. Failure to comply with or respond to any request will be considered a violation of this Consent Agreement.

6) The duration of any probationary period shall be tolled for: a) any absence from the state that is in excess of thirty (30) continuous days; b) any absence from the state that is in excess of sixty (60) aggregate days in a single year; c) any period in which Dr. Cieniawski does not hold an active license. Dr. Cieniawski shall inform the Board in writing in advance of any such absence from the state.

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.

14. Violation by Dr. Cieniawski 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.

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

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

17. 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.

18. 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.

19. 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.

20. Dr. Cieniawski 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.

21. Dr. Cieniawski has been represented by Abigail C. Varga, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

22. 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, MARK E. CIENIAWSKI, 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: 4/5/2017  M.D.  
MARK E. CIENIAWSKI, M.D.

STATE OF Maine  
Cumberland, S.S.

Personally appeared before me the above-named Mark E. Cieniewski, 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: 4/5/17   
NOTARY PUBLIC/ATTORNEY

BRENDA BRAULT  
Notary Public, Maine  
MY COMMISSION ENDS ~~My Commission Expires February 4, 2019~~

DATED: 4/5/17   
ABIGAIL C. VARGA, ESQ.  
Attorney for Mark E. Cieniewski, M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED:

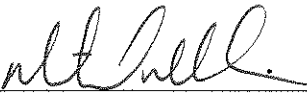
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MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF THE ATTORNEY GENERAL

DATED:

April 11, 2017

  
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MICHAEL MILLER  
Assistant Attorney General

Effective Date:

April 11, 2017