

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)
DONALD B. SHEA, M.D.) CONSENT AGREEMENT
Complaint No. CR16-49)

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 Donald B. Shea, M.D. The parties to the Consent Agreement are: Donald B. Shea, M.D. (“Dr. Shea”), 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. Shea has held a license to practice medicine in the State of Maine since December 17, 2008 (license number MD18015), and specializes in cardiovascular diseases.
2. On November 2, 2015, the Board of Licensure in Medicine (“the Board”) received a report from the Maine Medical Professionals Health Program (MPHP) reporting that Dr. Shea was returning to work following a leave of absence from work in September 2015, and that Dr. Shea had admitted to consuming alcoholic beverages while on leave in violation of an agreement. After considering the information contained in the report, the Board reviewed MPHP’s recommendations and voted to take no further action at that time regarding the report.

3. On January 21, 2016, the Board received an email from Thomas Avery, Board of Pharmacy Investigator, reporting that a pharmacist had contacted him and alleged that, on January 20, 2016, Dr. Shea attempted to fill a prescription that he had written for his girlfriend at two pharmacies for oxycodone. Mr. Avery further reported that the pharmacist stated that she called Dr. Shea's medical practice and was told that he was on leave and should not have written the prescription.

4. On January 25, 2016, the Board received a report from the MPHP stating that Dr. Shea was not currently practicing medicine, and was on leave from work. In addition, the MPHP stated that when confronted he admitted that he had suffered a relapse.

5. Further investigation revealed that Dr. Shea regularly self-prescribed several medications during the period 2013-2016. In addition, on January 20, 2016, Dr. Shea also attempted to fill an oxycodone prescription in the name of a patient.

6. At its meeting on February 9, 2016, the Board reviewed the investigation information, and voted to initiate a complaint. The Board docketed that complaint as CR16-49, and sent the complaint to Dr. Shea for a response.

7. On April 12, 2016, Dr. Shea entered into an Interim Consent Agreement with the Board which imposed an immediate suspension of his license to practice medicine.

8. By letter dated May 5, 2017, Dr. Shea responded to the complaint. In his response, Dr. Shea explained his medical conditions and admitted self-prescribing many medications which had been prescribed to him previously. Dr. Shea also acknowledged that on January 26, 2016, he attempted to fill prescriptions in the name of his girlfriend and a patient.

Dr. Shea explained in his response that he has been a participant with MPHP for many years as he has struggled over the years with opioid addiction as a result of having been prescribed opioids to treat the severe pain of biliary colic from primary sclerosing cholangitis, a condition he was born with and which required a liver transplant in 1991. Dr. Shea admitted to having relapsed into opioid addiction in January 2016 after devastating attacks of cholangitis in September 2015 and January 2016, both of which required biliary ductal dilatation at the Lahey Clinic in Burlington, MA and treatment with pain medications.

On February 8, 2016, Dr. Shea entered inpatient treatment at the Florida Recovery Center in Gainesville, FL where, for the first time, he did an intensive ninety-nine (99) day inpatient treatment program for healthcare providers with substance abuse disorders. On May 17, 2016 Dr. Shea was discharged from the Florida Recovery Center program having successfully completed the program. He returned to Maine to intensive monitoring by MPHP, including undergoing random drug testing four times a month. In addition to participation with the MPHP, since his discharge from inpatient treatment, Dr. Shea has continued to attend regular AA meetings, and treats with an

addictionologist, a psychiatrist, and a cognitive behavioral therapist. Dr. Shea worked with his doctors to develop a pain protocol designed to prevent substance abuse relapses should he suffer subsequent attacks of cholangitis requiring pain management.

9. By letter dated May 30, 2017, Dr. Shea submitted a request for reinstatement of his suspended license. With his request, Dr. Shea included a re-entry plan, a supplemental response to the complaint, and an appendix of supporting documentation, including the UF Health Florida Recovery Center discharge summary, the "Pain Protocol for Donald Brian Shea, MD", and a letter of support from Dr. Shea's MPHP case manager which noted his "new and different commitment to maintaining his recovery," which she considers remarkable.

10. Pursuant to 32 M.R.S. § 3282-A(2)(A), the Board may impose discipline for fraud, deceit or misrepresentation in obtaining a license or in connection with service rendered within the scope of the license issued.

11. Pursuant to 32 M.R.S. § 3282-A(2)(B), the Board may impose discipline for misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients.

12. 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.

13. At its meeting on July 11, 2017, the Board reviewed Complaint CR 16-49, and voted to set this matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Shea this Consent Agreement to resolve this matter without further proceedings. Absent Dr. Shea'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 6, 2017, the matter will be scheduled for an adjudicatory hearing.

COVENANTS

14. Dr. Shea admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(A) (for engaging in fraud, deceit or misrepresentation in connection with a service rendered within the scope of the license issued), (2)(B) (for misuse of alcohol, drugs or other substances that may result in the licensee performing services in a manner that endangers the health or safety of patients), and (2)(F) (for engaging in unprofessional conduct).

15. As discipline for the conduct described above, Dr. Shea agrees to accept the following discipline:

a) A CENSURE for engaging in fraud, deceit, or misrepresentation in connection with service rendered, for misuse of alcohol, drugs or other substances that may result in performing services in a manner that endangers the health or safety of patients, and for unprofessional conduct.

b) A LICENSE PROBATION for at least five (5) years subject to the following terms and conditions:

1) Dr. Shea must comply with all requirements of and maintain a monitoring agreement with the MPHP or an equivalent program approved by the Board ("Physician Health Program"), the terms of which are fully incorporated herein as if fully set forth. Prior to engaging in the practice of medicine, Dr. Shea shall ensure that the Board has received a copy of his Physician Health Program monitoring agreement, and any amendments or revisions thereto.

Dr. Shea hereby authorizes the Physician Health Program to disclose and release to the Board all information obtained by Physician Health Program relating to his participation with Physician Health Program, which authorization shall remain in effect for any period during which he has a license to practice medicine in the State of Maine. Dr. Shea shall execute any and all releases necessary for the Board, Board staff, and the Board's assigned Assistant Attorney General to: a) communicate directly with the Physician Health Program regarding his compliance with that program; b) review and obtain copies of any and all documentation regarding his participation in the Physician Health Program; c) communicate directly with anyone who is involved with his care and treatment; and d) review and obtain copies of any and all documentation regarding his medical care and treatment for substance misuse issues.

Within forty-eight (48) hours of being informed that a toxicology test result has been reported as positive for alcohol or a non-prescribed substance, Dr. Shea shall report such test result to the Board.

So long as this Consent Agreement remains in effect, Dr. Shea agrees and understands that any positive toxicology result confirmed by a blood, hair or nail toxicology test, that is reported to the Board for alcohol or any drug not known to be prescribed to him, shall result in the automatic and immediate suspension of his license to practice medicine in Maine, which suspension shall continue so long as determined by the Board, in its sole discretion, and is not appealable.

2) Dr. Shea shall notify the Board within three (3) days of: a) any arrest, summons, information or indictment for any crime; b) any summons or other charge for any civil violation that involves alcohol or drugs, including driving or operating under the influence; and c) any conviction or court decision pertaining thereto.

3) Dr. Shea shall provide a copy of the "Pain Protocol for Donald Brian Shea, MD" to all health care treatment providers and any pharmacy at which he obtains prescription drugs prior to receiving any treatment or the dispensing of any prescription drugs to him.

4) Prior to engaging in the practice of medicine, Dr. Shea must engage a Board approved physician practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Shea shall submit to the Board for its approval the name of a licensed physician willing to

serve as a proposed physician practice monitor. The Board or the Board's designee has the sole discretion to approve or reject the physician practice monitor. The physician practice monitor must meet at least weekly with Dr. Shea and review at least ten percent (10%) of all patient charts for a period of six (6) months. Dr. Shea understands that the physician practice monitor is an agent of the Board pursuant to 24 M.R.S. § 2511. The physician practice monitor shall provide the Board with monthly reports regarding Dr. Shea's practice beginning thirty (30) days after the date on which Dr. Shea begins practicing medicine. The reports shall include the physician practice monitor's assessment of Dr. Shea's practice, to include the review of patient charts, and a discussion of any issues, concerns, or deficiencies related to Dr. Shea's medical knowledge, judgment, clinical skills, or documentation. Dr. Shea must provide a copy of this Consent Agreement, together with any amendments hereto, to his physician practice monitor. The physician practice monitor shall include with his sixth monthly monitoring report a recommendation to the Board regarding the continuation, modification, or elimination of the monitoring requirements. Upon receipt of the physician practice monitor's recommendation, the Board shall review all information, and in its sole discretion, maintain, modify, or eliminate the requirements of this subparagraph for any remaining period of probation. After an initial period of six months, Dr. Shea may submit a written request to modify or eliminate the requirements of 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 any remaining period of probation.

5) While this Consent Agreement is in effect, Dr. Shea must communicate directly with the Board or Board staff, and must 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 exceeds thirty (30) continuous days;
- b) any absence from the state that exceeds sixty (60) aggregate days in a single year;
- c) any period in which Dr. Shea does not hold an active license; and
- d) any period that Dr. Shea takes a leave of absence from the practice of medicine.

Dr. Shea shall provide the Board with advance written notice of any absence from the state or of any leave of absence from the practice of medicine within two (2) business days, unless circumstances exist that are beyond Dr. Shea's control which do not reasonably permit notice to be provided within two (2) business days in which case notice shall be provided as soon as circumstances allow and may be provided by a family member or representative of the Physician Health Program.

7) After the expiration of five (5) years of probation, Dr. Shea may request that the Board terminate probation. Upon receipt of such request, the Board shall review all information relevant to the request, and shall approve or deny the request which may include maintaining, modifying, or

eliminating the requirements of probation for a specified term. The Board shall provide a written response to Dr. Shea's request stating the basis for the Board's determination. Dr. Shea understands and agrees that there is no right of appeal regarding the Board's determination.

c) Dr. Shea shall not prescribe to self or family members.

d) If in the course of receiving medical treatment, it is necessary for Dr. Shea to receive or take any opiate except buprenorphine, he shall immediately cease practicing medicine during the period of opiate use. Dr. Shea shall notify the Board within two (2) business days of a leave of absence pursuant to this subparagraph, unless circumstances exist that are beyond Dr. Shea's control which do not reasonably permit notice to be provided within two (2) business days in which case notice shall be provided as soon as circumstances allow and may be provided by a family member or representative of the Physician Health Program. Dr. Shea must notify the Board upon resuming practice and provide any releases necessary for the Board to discuss his treatment with all treatment providers.

16. The Board and the Department of the Attorney General may communicate and cooperate regarding Dr. Shea 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. Shea 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. Shea has been represented by Alice E. Knapp, 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, DONALD B. SHEA, 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.

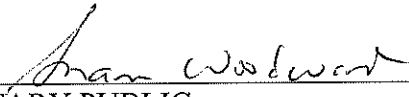
DATED: October 2, 2017


DONALD B. SHEA, M.D.

STATE OF MAINE
SAGADAHOC, S.S.

Personally appeared before me the above-named Donald B. Shea, 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.

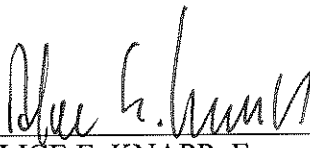
DATED: October 2, 2017


NOTARY PUBLIC

MY COMMISSION ENDS: _____

Sharon Woodward
Notary Public, Maine
My Commission Expires 4-30-20

DATED: October 2, 2017


ALICE E. KNAPP, Esq.
Counsel for Donald B. Shea, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:


10/10/17


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

October 10, 2017


MICHAEL MILLER
Assistant Attorney General

Effective Date: 10/10/2017