

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

<u>In re:</u>)	FIRST AMENDMENT TO
Lowell I. Gerber, M.D.)	CONSENT AGREEMENT
Complaint No. CR15-12)	

This document is a First Amendment to Consent Agreement for Discipline effective July 7, 2015, regarding disciplinary action imposed upon the license to practice medicine in the State of Maine held by Lowell I. Gerber, M.D (“First Amendment”). The parties to this First Amendment are: Lowell I. Gerber, M.D. (“Dr. Gerber”), the State of Maine Board of Licensure in Medicine (“the Board”), and the Department of the Attorney General (the “Attorney General”). This First Amendment is entered into pursuant to 32 M.R.S. § 3282-A and 10 M.R.S. § 8003(5).

BACKGROUND

1. On July 7, 2015, the parties entered into a Consent Agreement (“the Consent Agreement”).
2. In October 3, 2017, the Board issued a preliminary denial of Dr. Gerber’s application to renew his medical license which Dr. Gerber appealed.
3. On December 12, 2017, the Board held the first day of an adjudicatory hearing regarding the preliminary denial of Dr. Gerber’s application to renew his medical license.
4. This Amendment to the Consent Agreement has been negotiated in order to resolve all matters currently pending before the

Board.

AMENDMENT

5. Dr. Gerber, the Board, and the Department of the Attorney General hereby agree to amend the Consent Agreement dated July 7, 2015 by:

1) Amending paragraph 8(d)(1) to read as follows:

Requirement of a Chaperone: Dr. Gerber shall not treat or examine any female patient unless there is an adult female chaperone approved by the Board Chair or Case Reporter present at all times during the treatment or examination. Dr. Gerber may utilize multiple approved chaperones. Approval of a proposed chaperone shall not be arbitrarily or unreasonably withheld or delayed. The chaperone may be medical assistants, nurses, nurse practitioners, physicians or other independent objective persons. The chaperone MAY NOT be: a) a member of Dr. Gerber's family or household; b) a current or former patient; or c) the spouse or companion of a patient. In the event of a patient refusal to consent to a chaperone, or the unavailability of an approved chaperone, Dr. Gerber must reschedule the appointment or refer the patient for treatment elsewhere. Dr. Gerber shall cause the chaperone to sign the corresponding patient record at the time of the treatment or examination attesting to their attendance during the patient examination or interaction. Upon request by the Board, Dr. Gerber

shall immediately identify the chaperone utilized with regard to any patient and provide the chaperone's contact information. Dr. Gerber shall provide a copy of this Consent Agreement, together with any amendments hereto, to any chaperone utilized in his medical practice and maintain a written record available for inspection signed by the chaperone that he/she has received and read the Consent Agreement, as amended.

2) Deleting paragraph 8(d)(6) thereby removing the requirement of a physician practice monitor.

3) Inserting a new paragraph 8(d)(8) as follows:

Dr. Gerber acknowledges that while this Consent Agreement together with any amendments 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. If providing notice or supplying information to the Board is required by any provision of this Consent Agreement, as amended, Dr. Gerber shall provide such notice in writing to Julie Best, Complaint Coordinator. Failure to comply with or respond to any request will be considered a violation of this Consent Agreement.

6. Dr. Gerber acknowledges by his signature hereto that all other terms and conditions of the Consent Agreement effective July 7, 2015, as amended, remain in full force and effect.

7. The Board shall approve Dr. Gerber's August 30, 2017 application to renew his medical license upon the execution of this First Amendment to Consent Agreement by all parties.

8. Dr. Gerber acknowledges by his signature hereto that he has read this First Amendment, that he has had an opportunity to consult with an attorney before executing this First Amendment, that he executed this First Amendment of his own free will and that he agrees to abide by all terms and conditions set forth herein.

9. Nothing herein precludes Dr. Gerber from requesting reconsideration of any term, provision or condition in this Amendment or the Consent Agreement.

10. Dr. Gerber has been represented by Jeffrey Bennett, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

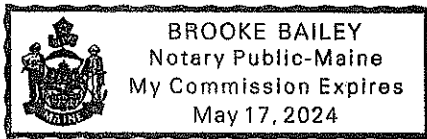
THE FOREGOING FIRST AMENDMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS FIRST AMENDMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS FIRST AMENDMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

Dated: 1-3-18

Lowell Gerber
LOWELL I. GERBER, M.D.

STATE OF MAINE
CUMBERLAND, SS.

Before me this 3rd day of January, 2018,
personally appeared Lowell I. Gerber, M.D., who after first being duly
sworn, signed the foregoing First Amendment to Consent Agreement in
my presence or affirmed that the signature above is his own.



Brooke Bailey
Notary Public/Attorney at Law
My commission expires:

DATED: 1-4-18

As Counsel=
Jeffrey Bennett #7223
JEFFREY BENNETT, ESQ.
Attorney for Lowell I. Gerber, M.D.

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

DATED:

1/9/18



MARY LOUISA BARNHART, M.D.,
Acting Chairperson

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

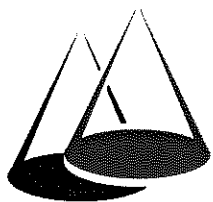
January 9, 2018



MICHAEL MILLER
Assistant Attorney General

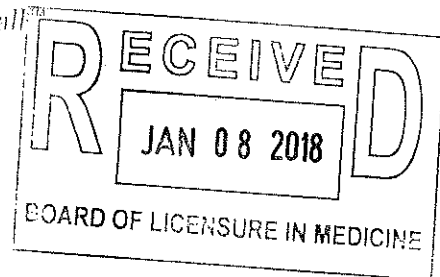
Effective Date:

January 9, 2018



LEGAL-EASE

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January 5, 2018

VIA FIRST CLASS MAIL
AND ELECTRONIC MAIL

State of Maine
Office of the Attorney General
Attn: Michael Miller, AAG
6 State House Station
August, ME 04333

RE: Lowell I. Gerber, M.D.
Case No. CR 15-12

Dear Attorney Miller:

In reference to the above matter, enclosed please find a fully executed Consent Agreement dated January 3, 2018.

Thank you.

Very truly yours,

Jeffrey Bennett, Esq.
Maine Bar No. 7223

JB/bb

cc: Lowell Gerber, M.D.