

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)
DANIEL BOBKER, M.D.) CONSENT AGREEMENT
Complaint No. CR18-184)

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 Daniel Bobker, M.D. The parties to the Consent Agreement are: Daniel Bobker, M.D. ("Dr. Bobker"), 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. Bobker has held a license to practice medicine in the State of Maine since February 15, 1995 (license number MD13940), and specializes in neurology.
2. On June 13, 2007, Dr. Bobker's medical license was immediately suspended following a report that he had been "abusing benzodiazepines and sedatives", that his judgment and cognitive functioning was impaired, and that he had left treatment against medical advice. On January 23, 2008, Dr. Bobker entered into a Consent Agreement ("2008 Consent Agreement") with the Board for unprofessional conduct and substance abuse which imposed conditions, monitoring, and treatment requirements upon his license to practice medicine in Maine. In accordance with the 2008 Consent Agreement,

Dr. Bobker's license was immediately suspended on June 25, 2008 based on his non-compliance following a report that he had tested positive for a prohibited substance and his admission that the drug was not prescribed to him.

3. On January 27, 2010, Dr. Bobker entered into a Second Consent Agreement for unprofessional conduct and substance abuse ("2010 Consent Agreement") which imposed conditions, monitoring, and treatment requirements upon his license to practice medicine in Maine. The 2010 Consent Agreement was amended several times based upon positive reports regarding his compliance with the conditions of the 2010 Consent Agreement. On April 7, 2014, following review of information regarding compliance and letters in support, and the understanding that he would voluntarily continue his treatment and attendance at self-help meetings, the Board granted Dr. Bobker's request to terminate the 2010 Consent Agreement.

4. On August 14, 2018, the Board issued an Order of Immediate Suspension of Dr. Bobker's license pursuant to 5 M.R.S. § 10004(3) following receipt of a August 1, 2018 report from a pharmacist that: a) over several months, Dr. Bobker phoned in prescription orders for olanzapine 20 mg, a non-controlled medication, for a patient that the pharmacy assumed was under his direct care but which later was discovered to be his girlfriend; b) Dr. Bobker's girlfriend was not prescribed olanzapine by her health care providers; c) Dr. Bobker sought and obtained early refills of prescriptions for several other medications, and was prescribed a number of medications, all of which can

cause drowsiness, are sedating, and have the potential or have been reported to be misused or abused. On August 16, 2018, the Board issued a complaint, docketed the complaint as CR18-184, and sent it to Dr. Bobker for a response

5. On September 10, 2018, the parties entered into an Interim Consent Agreement continuing the suspension of Dr. Bobker's license until the Board resolves CR18-184.

6. On September 18, 2018, Dr. Bobker underwent a neuropsychological evaluation as required by the Board. The evaluation resulted in recommendations for a sleep study and possible treatment.

7. By letter dated October 23, 2018, Dr. Bobker responded to the complaint. Dr. Bobker acknowledged that he phoned in prescriptions of olanzapine for his girlfriend who is now his spouse and that she had not been prescribed that drug by her own provider. Dr. Bobker admitted that he used some of the olanzapine prescribed to her. Dr. Bobker acknowledged that he did seek some early refills for some of his medications. Dr. Bobker stated that the medications did not cause him to be drowsy or sedated at any time when he was responsible for patient care.

8. On November 14, 2018, Dr. Bobker underwent a sleep study evaluation at Lahey Hospital and Medical Center as recommended in the September 18, 2018 neuropsychological evaluation report.

9. 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.

10. 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.

11. Pursuant to 32 M.R.S. § 3282-A(2)(F), the Board may impose discipline for unprofessional conduct if the licensee has engaged in conduct that violates a standard of professional behavior that has been established for the practice of medicine.

12. This Consent Agreement has been negotiated by legal counsel for Dr. Bobker and legal counsel for the Board in resolve this matter without proceeding to an adjudicatory hearing. Absent acceptance of this Consent Agreement by signing and dating it before a notary and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137, the matter shall proceed to an adjudicatory hearing.

COVENANTS

13. Dr. Bobker admits the facts stated above and that such conduct constitutes grounds for discipline pursuant to 32 M.R.S. §§ 3282-A(2)(A), (2)(B), (2)(F).

14. As discipline for the foregoing conduct, Dr. Bobker agrees to accept, and the Board imposes:

a) A REPRIMAND for engaging in deceit or misrepresentation in connection with issuing prescriptions for olanzapine, for misuse of non-

controlled substances that may result in performing services in a manner that endangers the health or safety of patients, and for unprofessional conduct.

b) Dr. Bobker shall not prescribe to self, family or household members.

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

1) Dr. Bobker shall maintain and comply with the September 26, 2018 Monitoring Agreement with the Maine Professionals Health Program ("MPHP") and has submitted a copy of the monitoring agreement to the Board, the terms of which are fully incorporated herein as if fully set forth. Dr. Bobker must submit to the Board any amendments or modifications to the MPHP monitoring agreement within ten (10) days after the amendment or modification. Dr. Bobker hereby authorizes MPHP to disclose and release to the Board all information obtained by MPHP relating to his participation with MPHP, which authorization shall remain in effect for any period during which he has a license to practice medicine in the State of Maine. Dr. Bobker 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 MPHP regarding his compliance with that program; b) review and obtain copies of any and all documentation regarding his participation in the MPHP; 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.

2) Within forty-eight (48) hours of being informed that a confirmed toxicology test result has been reported as positive for alcohol or any drug not known to be prescribed to him, Dr. Bobker shall report such test result to the Board.

3) So long as this Consent Agreement remains in effect, Dr. Bobker agrees and understands that if any of the following reports or information are received by the Board, it 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:

a) Any confirmed positive toxicology result that is reported to the Board for alcohol or any drug not known to be prescribed to him;

b) Any confirmed information that Dr. Bobker has prescribed any medication for himself, his family, or household members;

c) Any confirmed information that Dr. Bobker has obtained any medication by fraud, deceit or misrepresentation; and

d) Any confirmed information that Dr. Bobker is in substantial and material noncompliance with this Consent Agreement as determined by the Board in its sole discretion.

4) Dr. Bobker shall notify the Board within three (3) business days of any arrest, summons, information, or indictment for any crime, or any

civil violation that involves alcohol or drugs, including driving or operating under the influence, and any conviction or court finding related thereto.

5) Prior to engaging in the active practice of clinical medicine, Dr. Bobker shall submit for approval by the Board, Board Chair, or Board designee the name of a licensed psychiatrist who shall provide ongoing psychiatric care. Following approval, the treating psychiatrist shall submit monthly written reports to the Board no later than the 28th day of each month confirming that treatment was provided and identifying any issues or concerns that may impact Dr. Bobker's ability to competently and safely practice medicine. The reports shall include identification of all prescriptions issued to Dr. Bobker by the treating psychiatrist during the report period, and must contain pill counts and identify early refills of any prescribed medications. After an initial period of not less than two years, the treating psychiatrist may in his or her report request that the Board modify the reporting or ongoing treatment requirement. Upon receipt of such request, the Board may grant or deny the request in its sole discretion.

6) Prior to engaging in the active practice of clinical medicine, Dr. Bobker shall submit to the Board: a) a list of current health care providers; b) identify a single pharmacy at which he will receive his prescribed medications; and c) a list of all prescribed medications including the dosage, dosing instructions, and identifying the prescriber of the medication. Dr. Bobker shall submit any change in the information required by this

subparagraph in writing to the Board no later than seven (7) days after the change occurs.

7) Prior to engaging in the active practice of clinical medicine, Dr. Bobker shall submit for approval by the Board, Board Chair, or Board designee the name of a licensed psychologist or other qualified provider who shall provide ongoing cognitive behavioral therapy for insomnia. Following approval, the treating provider shall submit monthly written reports to the Board no later than the 28th day of each month confirming that treatment was provided and identifying any issues or concerns that may impact Dr. Bobker's ability to competently and safely practice medicine. After an initial period of not less than two years, the treating provider may in his or her report request that the Board modify the reporting or ongoing treatment requirement. Upon receipt of such request, the Board may grant or deny the request in its sole discretion.

8) Dr. Bobker shall undergo a neuropsychological evaluation, in scope as determined the Board and as recommended in the September 18, 2018 neuropsychological evaluation report no sooner than January 1, 2020, but not later than June 1, 2020 scheduled through Board staff. Following receipt of the neuropsychological report, the Board may, in its sole discretion, create, amend, modify, or terminate any condition of Dr. Bobker's probation.

9) Dr. Bobker must practice in a setting with at least one other licensed physician that is pre-approved by the Board, Board Chair, or Board designee. Dr. Bobker must identify a Physician Monitor within the

medical practice or setting who shall communicate with the Board and Board staff. The Physician Monitor must receive a copy of this Consent Agreement. The Physician Monitor shall respond timely to Board requests for information regarding Dr. Bobker's conduct or practice. The Physician Monitor shall immediately submit a written report to the Board should he or she be made aware of any issues or concerns regarding Dr. Bobker and/or his ability to safely practice medicine.

10) After the expiration of at least five (5) years of probation, Dr. Bobker may request that the Board modify or terminate any condition of probation. Upon receipt of such request, the Board shall review all information, and in its sole discretion, may maintain, modify, or eliminate the requirements of probation.

15. Dr. Bobker 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, Dr. Bobker shall provide such notice in writing to Julie Best, Complaint Coordinator, or her successor. Failure to comply with or respond to any request will be considered a violation of this Consent Agreement and unprofessional conduct.

16. 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. Bobker does not hold an active Maine license. Dr. Bobker shall inform the Board in writing in advance of any absence from the state specified above.

17. Any conduct of Dr. Bobker described herein may be considered in future Board action(s) as evidence of a pattern of misconduct.

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

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

20. 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.

21. 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.

22. 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.

23. Dr. Bobker 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.

24. Dr. Bobker has been represented by Kenneth W. Lehman, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

25. For the purposes of this Consent Agreement, the term "execution" means the date on which the final signature is affixed to this Interim Consent Agreement.

I, DANIEL BOBKER, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS CONSENT 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.

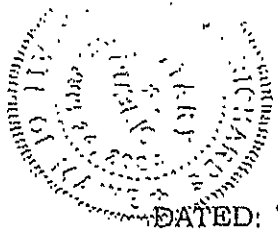
DATED: 1/7/19 [Signature]
DANIEL BOBKER, M.D.

STATE OF Maine
Cumberland, S.S.

Personally appeared before me the above-named Daniel Bobker, 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: 1/7/19 [Signature]
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS  AMANDA RICHARDS
Notary Public - Maine
My Commission Expires
June 24, 2024



DATED: January 7, 2019 [Signature]
KENNETH W. LEHMAN, Esq.
Counsel for Daniel Bobker, M.D.


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 1/8/19


MAROULLA S. GLEATON, M.D., Chair

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: January 8, 2019


MICHAEL MILLER
Assistant Attorney General

Effective Date: January 8, 2019