

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	SECOND CONSENT
Holly Arato, M.D.)	AGREEMENT
Complaint No. CR04-056)	

This document is a Second Consent Agreement, effective when signed by all parties, regarding disciplinary action against and conditions imposed upon the license to practice medicine in the State of Maine held by Holly Arato, M.D. The parties to the Second Consent Agreement are: Holly Arato, M.D. ("the Licensee"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Second Consent Agreement is entered into pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Arato has held a license to practice medicine in the State of Maine since 1992. She has practiced medicine in Presque Isle, Maine, and specialized in family medicine. She has not practiced medicine since March of 2007.

2. In 1999, Dr. Arato sustained serious maxillofacial injuries, including maxillary shattering, loss of teeth, and a displaced palate fracture. These injuries caused significant pain, and required corrective dental and oral surgeries. Dr. Arato's recovery from these injuries was complicated by subsequent maxillofacial injuries she sustained in 2001. Those subsequent injuries resulted in the loss of teeth and damage to her maxilla and orbits. Since that time, Dr. Arato has undergone multiple medical and dental

procedures to reconstruct her dentition. The injuries and attempted dental reconstruction resulted in traumatically induced chronic facial and dental pain.

3. In 2003, Dr. Arato began attempting to manage her own need for narcotic pain medications when her oral surgeon stopped issuing prescriptions for narcotic pain medications, except after a specific dental procedure. Dr. Arato obtained narcotic pain medications from an independently certified Advanced Practical Registered Nurse (APRN) whom Dr. Arato supervised in her practice, and from another physician in the community who is an OB-GYN physician. This physician did not maintain history or exam notes for Dr. Arato, who was using a significant amount of narcotic pain medications per day.

4. In 2004, the Board received information from the Pharmacy Board concerning Dr. Arato's use of narcotic pain medication that she obtained from the nurse practitioner and the OB-GYN physician. In May 2004, the Board issued a complaint against Dr. Arato's license based upon this information. The Board docketed the complaint as CR04-056.

5. On June 21, 2004, the Board received Dr. Arato's response to the complaint. In her response, Dr. Arato described the maxillofacial injuries that she sustained in 1999 and 2001, as well as the subsequent treatment and pain and its significant impact upon her life. Dr. Arato admitted that she became tolerant of the narcotic pain medication which she used solely for diminution of lacinating pain. Dr. Arato admitted that she used poor judgment in trying to manage her own pain control by having the APRN whom she supervised

prescribe pain medication for her, and by having the OB-GYN physician prescribe narcotic pain medication for her.

6. In April 2004, Dr. Arato was evaluated at Portsmouth Pavilion. The evaluation report found no evidence of an addictive disorder but concluded that Dr. Arato was suffering from major depression and pseudoaddiction secondary to chronic dental pain, and inadequate pain management. The evaluation report recommended that: Dr. Arato be managed by a pain specialist; Dr. Arato have a primary care physician outside of her own practice; Dr. Arato not prescribe for herself or anyone else without a medical record; Dr. Arato receive treatment for depression, including therapy; and that Dr. Arato participate in the Maine Physician/Health Program.

7. On May 10, 2005, the Board held an informal conference with Dr. Arato concerning Complaint CR04-056. Following that informal conference, the Board voted to offer Dr. Arato a consent agreement in order to resolve the complaint.

8. On December 13, 2005, Dr. Arato entered into a consent agreement with the Board. In that consent agreement, Dr. Arato agreed to a license probation for five (5) years with conditions, including:

- a. Dr. Arato participating in the Maine Physician Health Program;
- b. Dr. Arato continuing counseling;
- c. Dr. Arato maintaining a patient relationship with Elizabeth T. Weiss, M.D. or such other individual approved in advance

by the Board who would provide all of Dr. Arato's medical care, prescriptions, and pain medications; and

d. Dr. Arato not prescribing any medication for herself.

9. On December 9, 2008, the Board reviewed information it received from Dr. Arato's treating physician and the Maine Physician Health Program, which indicated that Dr. Arato was not in compliance with the terms of her consent agreement because she was not fully cooperating with the Physicians Health Program, and that she was not fit to practice of medicine. Following its review of this information, the Board summarily suspended Dr. Arato's Maine medical license pursuant to 5 M.R.S.A. § 10004(3).

10. On December 12, 2008, the Board sent Dr. Arato a notice of adjudicatory hearing, which had been scheduled for January 13, 2009. Dr. Arato requested a continuance of the adjudicatory hearing, and sought an in-patient evaluation from the Farley Center.

11. On October 5, 2009, the Board staff received a copy of Dr. Arato's evaluation at the Farley Center. That evaluation indicated that Dr. Arato underwent a ten-(10)-day in-patient evaluation, which included an addiction medicine evaluation, psychological testing, and participation in group. According to the team evaluation, Dr. Arato suffers from opioid abuse with a high index of suspicion for opioid dependence, major depressive disorder, and posttraumatic stress disorder. In addition, the evaluation concluded that Dr. Arato's comorbidities are undertreated and that it is unlikely that she would be able to obtain adequate treatment of her conditions in an out-patient setting.

As a result, the team recommended that Dr. Arato not practice medicine until she completes residential treatment for opioid abuse and major depression and posttraumatic stress disorder at a program that specializes in the treatment of dually diagnosed health care professionals.

12. The Board staff issued an amended notice of adjudicatory hearing on December 3, 2009, which hearing has been scheduled for January 12, 2010.

13. On December 21, 2009, Dr. Arato's legal counsel provided the undersigned assistant attorney general with a copy of an evaluation report prepared by Dr. Mark Publicker, M.D. on July 17, 2009, regarding Dr. Arato. According to that report, Dr. Publicker spent eighty (80) minutes with Dr. Arato and "reviewed all available records."¹ According to the report, Dr. Arato admitted "using a friend's opioid medication on several occasions to allow her to travel." According to Dr. Publicker, Dr. Arato suffers from major depressive disorder, post traumatic stress disorder, and substance misuse. According to Dr. Publicker, he found "no evidence of opioid addiction or of drug abuse... [and that] her history of obtaining medication outside of a doctor-patient relationship is most consistent with medication misuse."

14. This Second Consent Agreement has been negotiated by the undersigned assistant attorney general and the legal counsel to Dr. Arato in order to resolve this matter without an adjudicatory hearing. Absent acceptance of this Consent Agreement by signing and dating it and returning it

¹ The report did not identify with any specificity the records Dr. Publicker reviewed.

to Maureen Lathrop, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before January 4, 2010, the matter will proceed to an adjudicatory hearing on January 9, 2010.

15. By signing this Consent Agreement, Dr. Arato waives any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Arato also forever waives any arguments of bias or otherwise against any of the Board members in the event that the Board fails to ratify this proposed Consent Agreement.

COVENANTS

16. Dr. Arato admits that the Board has sufficient evidence from which it could reasonably conclude that:

a. She violated the terms of her consent agreement by:

(i) failing to fully participate in the Physicians Health Program; (ii) failing to continue maintain relationship with a Board-approved physician, who would provide all of her pain medications and prescriptions; and (iii) obtaining opioid medication from a friend (self-prescribing) for her use outside of a Board-approved doctor-physician relationship;

b. She currently suffers from a mental or physical condition that may result in her ability to practice medicine in a manner that endangers either the health or safety of patients.

Dr. Arato concedes that the foregoing constitute grounds for discipline pursuant to 32 M.R.S.A. § 3282-A(2)(C), (E) & (F), and 10 M.R.S.A. § 8003(5).

17. As discipline for the conduct admitted in paragraph 16 above, Dr. Arato agrees to the IMMEDIATE AND VOLUNTARY SURRENDER of her license to practice medicine in the State of Maine.

18. Nothing in this Second Consent Agreement shall prohibit Dr. Arato from, at reasonable intervals, petitioning the Board for reinstatement of her Maine medical license. Upon petitioning the Board for reinstatement, Dr. Arato shall bear the burden of demonstrating that: (a) her Maine medical license should be reinstated; and (b) that the resumption of her practice of medicine would not pose a risk to herself or to the public; and (c) she is capable of practicing medicine without posing an unreasonable risk of inappropriate drug use; and (d) that no grounds exist for the Board to deny her application for reinstatement. The Board, upon receipt of any such petition for reinstatement from Dr. Arato, may grant or deny the petition and/or may grant Dr. Arato a license subject to restrictions and/or conditions pursuant to 10 M.R.S.A. § 8003(5).

19. Dr. Arato has been represented by Francis E. Bemis, Esq., who has participated in the negotiation of the terms of this Second Consent Agreement.

20. Dr. Arato waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Second Consent Agreement.

21. This Second Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto.

22. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Arato or any other matter relating to this Second Consent Agreement.

23. This Second Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

24. This Second Consent Agreement constitutes disciplinary action that is reportable to the Federation of State Medical Boards (F.S.M.B.), the National Practitioner Data Bank (N.P.D.B.), and the Healthcare Integrity and Protection Data Bank (H.I.P.D.B.).

25. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

I, HOLLY ARATO, M.D., HAVE READ AND UNDERSTAND THE FOREGOING SECOND 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 SECOND CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS SECOND CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

12 1-7-10
H.A.

Holly Arato
HOLLY ARATO, M.D.

STATE OF Maine
Arroostook, S.S.

Personally appeared before me the above-named Holly Arato, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: Jan 7, 2010

Francis E. Bemis
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS:

Francis E. Bemis
State of Maine, Notary Public
My Commission Expires 10/21/2014

DATED: Jan 7, 2010

Francis E. Bemis
FRANCIS E. BEMIS, ESQ.
Attorney for Holly Arato, M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 1/12/10

Sheridan R. Oldham, MD
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 1/12/10

Dennis E. Smith
DENNIS E. SMITH
Assistant Attorney General

Effective Date: 11/12/10



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
137 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0137

SHERIDAN R. OLDHAM, M.D.
CHAIRMAN

JOHN ELIAS BALDACCI
GOVERNOR

RANDAL C. MANNING
EXECUTIVE DIRECTOR

December 10, 2008

**FIRST CLASS AND CERTIFIED MAIL 7007 0710 0000 0935 6438
RETURN RECEIPT REQUESTED**

Holly G. Arato, M.D.
88 Marshall Rd
Fort Fairfield, ME 04742

RE: NOTICE OF IMMEDIATE SUSPENSION OF LICENSE

Dear Dr. Arato:

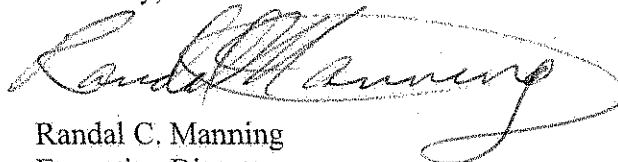
During its meeting on December 9, 2008, the Maine Board of Licensure in Medicine reviewed information indicating that you are non-compliant with the terms of the Consent Agreement dated December 13, 2005. More specifically, the Board reviewed information concerning: your alleged failure to provide releases for your medical and/or counseling records in a timely manner after repeated requests by Board staff to do so; your alleged failure to communicate with Board staff; your alleged failure to fully cooperate with the Medical Professional Health Program; and the opinion of your treating physician that you are not currently fit to practice medicine.

After review of this information, the Board voted to suspend your license to practice medicine effective December 9, 2008, pursuant to 5 M.R.S.A. § 10004 (3) because of the immediate jeopardy your continued practice of medicine poses to the health and physical safety of the public. Your license is suspended for thirty (30) days pending an adjudicatory hearing before the Board on January 13, 2009, at the Board offices at 161 Capitol Street, Augusta, Maine. A notice of hearing for that adjudicatory hearing will be sent to you forthwith.

You must forward your medical license to the Board office immediately.

If you have any questions, please contact me at 287-3605.

Sincerely,



Randal C. Manning
Executive Director

RCM/msl
CR 04-056
cc: Dennis Smith, Assistant Attorney General

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
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Complaint No. CR04-056)	

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STATEMENT OF FACTS

1. Dr. Arato has held a license to practice medicine in the State of Maine since 1992. Since that time, she has practiced medicine in Presque Isle, Maine, and specializes in family medicine.

2. In 1999, Dr. Arato sustained serious maxillofacial injuries, including maxillary shattering, loss of teeth, and a displaced palate fracture. These injuries caused significant pain, and required corrective dental and oral surgeries. Dr. Arato’s recovery from these injuries was complicated by subsequent maxillofacial injuries she sustained in 2001. Those subsequent injuries resulted in the loss of teeth and damage to her maxilla and orbits. Since that time, Dr. Arato has undergone multiple medical and dental procedures to reconstruct her dentition. The injuries and attempted dental

reconstruction resulted in traumatically induced chronic facial and dental pain.

3. In 2003, Dr. Arato began attempting to manage her own need for narcotic pain medications when her oral surgeon stopped issuing prescriptions for narcotic pain medications, except after a specific dental procedure. Dr. Arato obtained narcotic pain medications from an independently certified Advanced Practical Registered Nurse (APRN) whom Dr. Arato supervised in her practice, and from another physician in the community who is an OB-GYN physician. This physician did not maintain history or exam notes for Dr. Arato, who was using a significant amount of narcotic pain medications per day.

4. In 2004, the Board received information from the Pharmacy Board concerning Dr. Arato's use of narcotic pain medication that she obtained from the nurse practitioner and the OB-GYN physician. In May 2004, the Board issued a complaint against Dr. Arato's license based upon this information. The Board docketed the complaint as CR04-056.

5. On June 21, 2004, the Board received Dr. Arato's response to the complaint. In her response, Dr. Arato described the maxillofacial injuries that she sustained in 1999 and 2001, as well as the subsequent treatment and pain and its significant impact upon her life. Dr. Arato admitted that she became tolerant of the narcotic pain medication which she used solely for diminution of lacinating pain. Dr. Arato admitted that she used poor judgment in trying to manage her own pain control by having the APRN whom she supervised

prescribe pain medication for her, and by having the OB-GYN physician prescribe narcotic pain medication for her.

6. In April 2004, Dr. Arato was evaluated at Portsmouth Pavilion. The evaluation report found no evidence of an addictive disorder but concluded that Dr. Arato was suffering from major depression and pseudoaddiction secondary to chronic dental pain, and inadequate pain management. The evaluation report recommended that: Dr. Arato be managed by a pain specialist; Dr. Arato have a primary care physician outside of her own practice; Dr. Arato not prescribe for herself or anyone else without a medical record; Dr. Arato receive treatment for depression, including therapy; and that Dr. Arato participate in the Maine Physician Health Program.

7. On May 10, 2005, the Board held an informal conference with Dr. Arato concerning Complaint CR04-056. Following that informal conference, the Board voted to offer Dr. Arato this Consent Agreement in order to resolve the complaint. Absent Dr. Arato's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before December 13, 2005, the Board will resolve this matter by holding an adjudicatory hearing.

COVENANTS

8. Dr. Arato admits that the Board has sufficient evidence from which it could reasonably conclude that she improperly obtained narcotic pain medication in order to self-manage her chronic pain, and that such conduct

constitutes grounds for discipline of his Maine license pursuant to 32 M.R.S.A. § 3282-A.

9. As discipline for the conduct admitted in paragraph 8 above, Dr. Arato agrees to a five (5) year license probation, effective retroactively to March 1, 2004, with the following conditions:

a. Dr. Arato shall continue to maintain a patient relationship with Elizabeth T. Weiss, M.D. or such other individual approved in advance by the Board, who is a primary care physician outside of Dr. Arato's own medical practice and who will provide all of Dr. Arato's medical care, prescriptions, and pain medications;

b. Dr. Arato shall continue to engage in counseling and treatment with Laurene A. Collins, Ed.D. or such other individual approved in advance by the Board;

c. Dr. Arato shall ensure that, for the first two years following the date on which the final signature is affixed to this Consent Agreement, her counselor provides the Board with monthly reports concerning Dr. Arato's counseling and treatment. Thereafter, Dr. Arato shall ensure that her counselor provides the Board with reports quarterly;

d. Dr. Arato agrees that her medical practice will be monitored by a physician or physicians approved by the Board. This physician must be in direct contact with Dr. Arato and observe her within her medical practice at least once a week, and inform the Board if Dr. Arato demonstrates any issues with regard to isolation and inappropriate boundaries. The monitoring

physician shall report such information by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Arato shall, within thirty days following the execution of this Consent Agreement, provide the Board with the name, telephone number, and office address of her proposed monitoring physician or physicians;

e. Dr. Arato shall permit the Board or its agent(s) to inspect her medical practice at random intervals as determined by the Board or its designee to ensure her compliance with the terms and conditions of this Consent Agreement. Such inspection shall include access to all areas and records of the medical practice;

f. Dr. Arato agrees and understands that the Board and the Office of Attorney General shall have complete access to her present and future personal medical and counseling records, and shall execute any and all releases so that the Board and the Office of the Attorney General may access and/or obtain copies of her medical and/or counseling and treatment records;

g. Dr. Arato shall not prescribe any medications for herself or her family members;

h. Dr. Arato agrees and understands that her prescriptive practice will be monitored during the period of probation, and shall cooperate with the Board by whatever means necessary to effectuate this process; and

i. Dr. Arato shall participate in the Maine Physician Health Program.

10. Nothing in this Consent Agreement shall prohibit Dr. Arato from qualifying for approval as a primary supervising physician for a licensed Physician Assistant or for a licensed Advanced Practice Registered Nurse pursuant to Board Rules, Chapters 2 and 3.

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

12. Dr. Arato waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

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

14. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Arato or any other matter relating to this Consent Agreement.

15. This Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S.A. § 408.

16. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

17. The Board and Dr. Arato agree that no further agency or legal action will be initiated against her by the Board based upon the facts described herein, except or unless she fails to comply with the terms and conditions of this Consent Agreement.

18. The term of this agreement is five (5) years from March 1, 2004.

The Licensee may request amendments or changes to this agreement by submitting such request in writing to the Board which may decide the matter without a hearing.

I, HOLLY ARATO, 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: 12.8.05 Holly Arato
HOLLY ARATO, M.D.
STATE OF MAINE
Arcoostook, S.S.

Personally appeared before me the above-named Holly Arato, M.D., and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 12-9-05 Bonnie J. Steves
NOTARY PUBLIC/ATTORNEY


MY COMMISSION ENDS:

1-24-10

DATED: Dec. 7, 2005 KW Lehman
KENNETH W. LEHMAN, ESQ.
Attorney for Holly Arato, M.D.
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

12-13-05



EDWARD DAVID, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

12/12/05



DENNIS E. SMITH
Assistant Attorney General

Effective Date: