

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Rogelio J. Naranja, Jr., M.D.)	AGREEMENT
Complaint Nos. CR08-377/08-409)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary and re-licensure action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by Rogelio J. Naranja, Jr., M.D. The parties to the Consent Agreement are: Rogelio J. Naranja, Jr., M.D. ("Dr. Naranja"), 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.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. Dr. Naranja has held a license to practice medicine in the State of Maine since July 25, 2001, and specializes in Orthopedic Surgery.
2. On December 11, 2007, the Board received from Dr. Naranja an on-line application to renew his Maine medical license. On that application, Dr. Naranja reported that during the previous two years he had settled a medical malpractice claim or suit for \$1,000,000, which represented "full and final payment of a disputed claim involving allegations of an unnecessary hip arthroplasty in 35 year old female."
3. On December 17, 2007, the Board staff requested additional information from Dr. Naranja regarding the \$1,000,000 medical malpractice settlement, including the date of payment and the proportion of his assessed liability. In addition, the Board requested additional information regarding specific additional orthopedic surgical procedures performed by Dr. Naranja.

4. On December 26, 2007, the Board received additional information from Dr. Naranja regarding the \$1,000,000 medical malpractice settlement, including the fact that payment was made on February 26, 2007, and that it was based solely upon his liability. In addition, Dr. Naranja provided summaries of the requested additional orthopedic surgical procedures performed by him.

5. On February 12, 2008, the Board reviewed Dr. Naranja's application for re-licensure, and requested that Dr. Naranja provide it with a copy of selected additional medical records for other specified patients. In addition, the Board staff notified Dr. Naranja that, until final action by the Board on his application, he could continue practicing medicine pursuant to 5 M.R.S.A. § 10002.

6. On September 8, 2008, the Board received a report from an orthopedic surgeon, whom the Board staff had retained to perform a review of Dr. Naranja's care and treatment of the patient involved in the \$1,000,000 medical malpractice case and the other patients specified by the Board involving orthopedic procedures performed by Dr. Naranja. The report questioned certain aspects of Dr. Naranja's care and treatment in three cases (identified here as "Patient[s] A, B, and C"), including inadequate medical record-keeping, proper surgical technique, lack of imaging studies, and surgical decision-making. In addition, the report also indicated that certain other of Dr. Naranja's cases exhibited acceptable care, treatment, and record-keeping.

7. On October 14, 2008, the Board reviewed the foregoing information and voted to preliminarily deny Dr. Naranja's application for re-licensure. The Board later docketed that matter as CR08-409. In addition, the Board reviewed information that it received from the Maine Drug Enforcement Agency expressing concern regarding Dr. Naranja's prescribing practices for patient KS. Following its review of this information, the Board voted to initiate a

complaint against Dr. Naranja's medical license. The Board docketed that matter as Complaint CR08-377.

8. On or about November 7, 2008, the Board notified Dr. Naranja that it had received his appeal of its decision to preliminarily deny his application for re-licensure.

9. On December 23, 2008, the Board received a response from Dr. Naranja to Complaint CR08-377 regarding his prescribing practices for patient KS. According to Dr. Naranja, his treatment goal for patient KS was "to avoid, or at least delay, any further surgical interventions and try to control her pain with activity modification and monitored prescriptions of analgesics." Dr. Naranja asserted that patient KS suffered from "chronic pain," and that he monitored her for adverse side effects of the narcotics as well as "for signs of drug seeking or other improper behavior." According to Dr. Naranja, patient KS "did not present as a classic drug-seeking patient as her pain complaints were corroborated by objective findings." Dr. Naranja asserted that he monitored patient KS's narcotic usage by regular contact and "urine and/or blood testing on multiple occasions." Dr. Naranja admitted that in January 2007 he became concerned that patient KS might be selling the narcotic medications that he was prescribing to her. As a result, according to Dr. Naranja, he began running "tox screens" on the patient to ensure that she was ingesting the narcotics that he was prescribing.

10. A retrospective review of Dr. Naranja's medical records regarding his treatment of patient KS, in combination with additional pharmaceutical records obtained from the Prescription Monitoring Program (P.M.P.), revealed that patient KS exhibited both opioid dependence and drug-seeking behaviors that were apparent or should have been apparent to Dr. Naranja, and that Dr. Naranja failed to comply with the principles of proper management of chronic pain.

11. This Consent Agreement has been negotiated by counsel for Dr. Naranja and the assistant attorney general counsel assigned to the Board in order to resolve complaint CR08-377 and the re-licensure matter CR08-409 without an adjudicatory hearing. Absent Dr. Naranja's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 30, 2009, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board's acceptance of this Consent Agreement by ratifying it on November 10, 2009, the matters will be scheduled for a consolidated adjudicatory hearing at a later date.

12. By signing this Consent Agreement, Dr. Naranja and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board for possible ratification. Dr. Naranja and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members in the event that the Board failed to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to a consolidated adjudicatory hearing in these matters, Dr. Naranja agrees to the following:

13. Dr. Naranja admits that with regard to complaint CR08-377 and re-licensure matter CR08-409 the Board has sufficient evidence from which it could reasonably conclude that his medical record keeping and/or certain aspects of his care and treatment regarding Patients A, B, C, & KS amounted to unprofessional conduct, and constitute grounds for discipline of his Maine license and/or the denial of his application for the renewal of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

14. As discipline for the conduct admitted in paragraph 13 above, Dr. Naranja agrees to accept, and the Board agrees to issue, the following discipline:¹

a. A REPRIMAND. Dr. Naranja shall take all measures necessary to ensure that the conduct as described in this Consent Agreement does not re-occur;

b. A LICENSE PROBATION FOR FIVE (5) YEARS subject to the following conditions:

(i) Continuing Medical Education: Within twelve (12) months following the execution of this Consent Agreement, Dr. Naranja shall successfully complete courses pre-approved by the Board in the following areas:

- (a) Diagnosis and treatment of the young orthopedic patient;
- (b) Conservative treatment of orthopedic issues;
- (c) Narcotic/opiate prescribing; and
- (d) Medical ethics.

Dr. Naranja shall ensure that the Board receives documentation confirming his successful completion of the continuing medical education courses within twelve (12) months following the execution of this Consent Agreement.

(ii) Prescribing Practices: Dr. Naranja shall not prescribe any narcotic/opiates or other controlled drugs to any patients for the treatment of “chronic pain” as defined by Board Rule, Chapter 11. This provision is not intended to preclude Dr. Naranja from prescribing narcotics/opiates and other controlled drugs to any patients

¹ The Board also grants Dr. Naranja’s pending application to renew his Maine medical license, subject to the discipline and the conditions of probation.

for the treatment of “acute pain” as defined by Board Rule, Chapter 11 once he has completed a Board-approved course regarding narcotic/opioid prescribing.

(iii) Total Joint Replacement: Dr. Naranja shall not perform any type of total joint replacement surgical procedures (i.e. knee, hip, shoulder) on any patient without first complying with the following requirements of BOTH paragraphs (a) and (b):

(a) Referring the patient’s medical records (including, in all cases, pertinent available imaging studies) to a physician² approved by the Board; or

Referring the patient, upon the patient’s request, to a physician approved by the Board for a second orthopedic consultation; and

(b) Obtaining an opinion from the physician performing the medical record review or the second orthopedic consultation that total joint replacement is medically indicated.

(iv) Physician Monitor: Following the execution of this Consent Agreement, and within thirty (30) days prior to Dr. Naranja commencing the practice of medicine, Dr. Naranja must have a Board-approved practice monitor who shall monitor his medical practice. In complying with this requirement, Dr. Naranja shall submit to the Board for its approval the name of a proposed practice monitor, whom the Board has the sole discretion to approve or deny. The monitoring physician must be in direct contact with Dr. Naranja and observe him within his medical practice at least once a week, and inform the Board if Dr. Naranja demonstrates any issues with regard to isolation,

² The physician must be Board certified in orthopedics and cannot work closely with Dr. Naranja.

inappropriate decision-making, incompetence, unprofessionalism or any other related concerns. The monitoring physician shall report such information to the Board by telephone and in writing within 24 hours or as soon thereafter as possible. Dr. Naranja understands that the monitoring physician will be an agent of the Board pursuant to Title 24 M.R.S. § 2511. Dr. Naranja shall permit the monitoring physician full access to his medical practice, including but not limited to all patient information. Dr. Naranja shall also permit the monitoring physician to contact any of the Board-approved physicians performing record reviews and/or orthopedic consultations to Dr. Naranja under Paragraph 14(b)(iii) of this Consent Agreement. The Board-approved monitor shall provide the Board with reports regarding Dr. Naranja's medical practice on or before January 9th, April 9th, July 9th, and October 9th of each year following his/her approval as practice monitor, and until the completion of the probation period. In addition, in complying with this provision, Dr. Naranja shall notify the Board in writing immediately upon his return to the active practice of medicine.

(v) Within one (1) year of the execution of this Consent Agreement, Dr. Naranja shall reimburse the Board Two Thousand Four Hundred Ninety-One Dollars and Eleven Cents (\$2,491.11) as the actual costs incurred by the Board for the investigation of this matter. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine" and be remitted to Maria MacDonald, Investigator, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

(vi) Access to Medical Practice/Medical Records: In order to ensure Dr. Naranja's compliance with the terms and conditions of this Consent Agreement, Dr.

Naranja shall permit the Board or its agent(s) complete access to his medical practice and all medical records of the patients that he diagnoses and treats. In addition, Dr. Naranja shall provide the Board on a quarterly basis with a list of all surgical procedures that he has performed during that quarter. Dr. Naranja shall ensure that the Board receives such reports on February 1, May 1, August 1, and November 1 of each calendar year following the execution of this Consent Agreement. The Board may use these reports in order to identify any medical records that it desires to review and request from Dr. Naranja to ensure his compliance with the terms and conditions of this Consent Agreement.

(vii) Costs of Complying with Consent Agreement: Pursuant to 10 M.R.S.A. § 8003(5), Dr. Naranja shall be responsible for all costs associated with his compliance with the terms and conditions of this Consent Agreement, including but not limited to any future review by the Board or its agent(s) of the medical care that he provides to patients and the cost of any medical record review performed by a Board-approved physician pursuant to paragraph 14(b)(iii).

15. Violation of any of the terms or conditions of this Consent Agreement by Dr. Naranja shall constitute grounds for additional disciplinary action including but not limited to license suspension, license revocation, or non-renewal of licensure.

16. Pursuant to 10 M.R.S.A. § 8003(5), Dr. Naranja shall be responsible for all costs associated with his compliance with the terms and conditions of probation and of this Consent Agreement, including but not limited to the costs of continuing medical education, inspection of his medical practice by the Board or its agents, and providing any reports or medical records.

17. Dr. Naranja waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Naranja agrees that this

Consent Agreement and Order is a final order resolving the complaint CR08-377 and the license renewal matter CR08-409. This Consent Agreement is not appealable and is effective until modified or rescinded by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General. Requests for amendments by Dr. Naranja shall be made in writing and submitted to the Board. Dr. Naranja may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Naranja shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Naranja's petition; (b) grant Dr. Naranja's petition; and/or (c) grant Dr. Naranja's petition in part as it deems appropriate to ensure the protection of the public. Any decision by the Board on this issue need not be made pursuant to a hearing and is not appealable.

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

19. 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.

20. This Consent Agreement constitutes disciplinary action that is reportable to the National Practitioner Data Bank (NPDB), the Health Integrity and Protection Data Bank (HIPDB), and the Federation of State Medical Boards (FSMB).

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

22. The Board and Dr. Naranja agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein, except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Naranja in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Naranja's license.

23. Dr. Naranja 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.

I, ROGELIO J. NARANJA, JR., 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: Nov 2, 2009


ROGELIO J. NARANJA, JR., M.D.

STATE OF Maine

Orvostock, S.S.

Personally appeared before me the above-named Rogelio J. Naranja, Jr., 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: 11/02/09

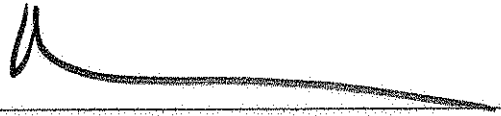

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: _____

CAROLYN M. FLOURDE
Notary Public, Maine
My Commission Expires July 25, 2010

DATED:

11/04/09



HOLLY RUSSELL JONES, ESQ.
ATTORNEY FOR DR. NARANJA

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:

11/10/09

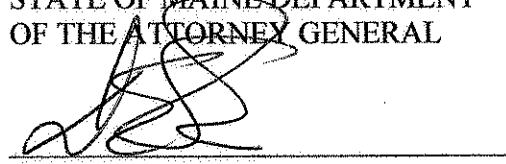


SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED:

11/10/09



DENNIS E. SMITH
Assistant Attorney General

Effective Date:

11/10/09