



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE
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04333-0137

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EXECUTIVE DIRECTOR

January 9, 2008

Robert J. Struba, M.D.
34 Race St.
Belfast, ME 04915

RE: Completion of Consent Agreement

Dear Dr. Struba:

This letter is to inform you that The Maine Board of Licensure in Medicine voted to release you from the terms of the Consent Agreement, effective January 8, 2008.

The Board will make reports to the National Practitioner Data Bank and to the Federation of State Medical Boards documenting your successful fulfillment and the resulting closure of the Consent Agreement. Please feel free to contact me @ 207-287-6931 if you have any questions.

Sincerely,

Maria A. MacDonald
Investigator

/mm

cc: David Simmons, M.D.
Maureen Lathrop ✓
CR 06-015

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

IN RE: Robert J. Struba, M.D.)
)
) CONSENT AGREEMENT
) FOR DISCIPLINE AND
) MODIFICATION OF LICENSE

This document is a Consent Agreement and Order, effective when signed by all parties, regarding discipline and the modification of a license to practice medicine in the State of Maine held by Robert J. Struba, M.D. The parties to the Consent Agreement are: Robert J. Struba, M.D. (the "Licensee"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Department of Attorney General.

FACTUAL BACKGROUND

1. Robert J. Struba, M.D. has been licensed to practice medicine as a physician in the State of Maine since August, 1997. He currently holds an active license which expires and is subject to renewal on November 4, 2004.
2. On November 20, 2002, the Licensee was arrested for an assault which resulted in personal injuries to his domestic partner and multiple criminal charges, including felony charges, against the Licensee.
3. The Board ordered an evaluation by Jonathan Seigel, Ph.D., in May, 2003. Dr. Seigel noted that the Licensee had been sober since December, 2002 and was actively involved in his own recovery, including participation with the Physicians Health Program since January, 2003. He had also been involved with individual, couples' and batterers' counseling which indicated that long term, unresolved anger and alcohol abuse contributed to the assault which occurred on November 20, 2002.
4. On February 12, 2004, the Licensee pled guilty to aggravated assault, a felony, and was sentenced to five (5) years in prison with all but six (6) months of that term suspended. He was also placed on probation for four (4) years. The Licensee has completed his six (6) month term of incarceration and is currently on probation. He has completed a forty-eight (48) week anger management/ domestic violence treatment program. He is in compliance with his contract with the Physicians Health Program.
5. The Board issued a complaint against the Licensee alleging unprofessional conduct, substance abuse and a felony criminal conviction which, if proved, constitute grounds for discipline of his license

AGREEMENT

The Licensee agrees that the Board has jurisdiction over his license and the matters raised by the complaints currently pending before the Board. The Licensee further agrees to the above-stated findings of fact.

DISCIPLINE

Based on the Licensee's acceptance of responsibility for his actions, his continuing treatment of his alcohol abuse and anger management problems, as well as the understanding and agreement between the Licensee and the Board that any future use of any illicit substance by the Licensee will result in the revocation of his license, the Board will issue and the Licensee will agree to accept the following discipline and modifications to his license:

1. A **suspension** of his medical license, running concurrent with his term of imprisonment from February 12, 2004 to June 15, 2004.

CONDITIONS OF LICENSURE

The Licensee and the Board agree and understand that maintenance of his license shall be determined by the Licensee's compliance with the following conditions of licensure. Except as may be specified below, failure to comply within any of the following conditions may result in the non-renewal or revocation of the Licensee's license to practice medicine in the State of Maine.

1. ABSTINENCE. The Licensee agrees that henceforth he shall completely abstain from the use of any and all Prohibited Substances. "Prohibited Substances" as used throughout this Consent Agreement shall mean: opiates; alcohol; cocaine; fentanyl; mood, consciousness or mind-altering substances, whether illicit or not; and all drugs which are dispensed to or prescribed for the Licensee by anyone other than a treating physician knowledgeable of the Licensee's history of substance abuse, unless the circumstances constitute a genuine medical or surgical emergency.

A. Prescription Medication. If any controlled drug is dispensed or prescribed for the Licensee for a personal medical condition, the Licensee or the Supervising Physician shall notify the Board by telephone and in writing within 48 hours or as soon thereafter as possible. This notice shall be followed by a written summary of all pertinent circumstances. The Board shall be apprised every five days of all continuing

pertinent circumstances regarding continued use of the controlled drug, and a written report thereof shall be submitted to the Board for every five days that the use of the controlled drug continues after the initial 48-hour report.

B. Future Use of Prohibited Substances Shall Result in Loss of Licensure. The Licensee agrees and understands that any reliable evidence of use at any time in the future, whether in Maine or elsewhere, of any Prohibited Substance shall constitute a violation of this Consent Agreement, which SHALL RESULT IN THE IMMEDIATE, INDEFINITE AUTOMATIC SUSPENSION OF LICENSURE, AND PROOF OF USE MAY RESULT IN AUTOMATIC REVOCATION/NON-RENEWAL OF LICENSURE.

2. SANCTION FOR VIOLATION OF LICENSE CONDITIONS.

A. Automatic Suspension. Any reliable oral or written report to the Board of violation, of these License Conditions shall result in the immediate, indefinite and automatic suspension of the Licensee's license. The automatic suspension of the Licensee's license shall become effective at the time the Licensee receives actual notice from the Board that a report of violation has been made. Actual notice can be provided by telephone, in person, in writing, by another means or any combination of the above-referenced means. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter, unless the Board earlier determines that the report is without merit or decides that no further sanction is warranted.

B. Continued Suspension; Other Sanctions. The Licensee's indefinite automatic suspension shall continue for such time until the Board holds a hearing and reaches a decision. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both the Licensee and the Board agree to hold the hearing later) and shall be held pursuant to the Maine Administrative Procedure Act. The Board may impose such other discipline, including without limitation, fines, further suspension, probation, non-renewal or revocation, as the Board after hearing deems appropriate.

3. SUBSTANCE MONITORING. The Licensee understands and agrees that he may, for the remainder of his career as a licensed physician, undergo some level of substance monitoring to test whether the Licensee has used a Prohibited Substance. The monitoring shall be through urinalysis testing and/or blood testing, and any other reliable method which may later be developed and approved by the Board.

The Licensee irrevocably agrees that the Board and the Maine Department of Attorney General will have full access to all test data and reports.

Reasonable changes in testing to more reliable methods of detection of usage may be proposed by the Licensee or the Board and changes shall be made in the Board's discretion, with or without a hearing. It is the Licensee's obligation to ensure that the plan for testing, as stated herein, is complied with in full.

A. Process. All urine and/or blood samples shall be handled through legal chain of custody methods. All samples provided shall be analyzed by a certified laboratory, which regularly handles drug monitoring tests. The Board must approve any changes.

B. Frequency of Urine Testing. It is the Licensee's obligation to ensure that all the samples are given and tests occur as specified in this Agreement. Samples are to be randomly scheduled. The Board may request a sample at any time. Failure to maintain this schedule or the random nature of the tests shall be cause for suspension, non-renewal or revocation of the Dr. Struba's license, unless proof of genuine emergent medical circumstances (for the Licensee or a patient) exist which warrant less serious disciplinary actions being taken by the Board.

1. For a period of one (1) year from the signing of this agreement, urine samples shall be provided twice a month;

2. For the second year of monitoring, urine samples will be provided once a month;

3. For the remainder of the term of this agreement, urine samples will be provided at a minimum of every two (2) months. The frequency of urine testing shall continue as outlined herein even while the Licensee is on vacation or on a leave of absence in the continental United States. He shall be responsible for making arrangements to ensure that the testing is carried out with the frequency and standards outlined in this Consent Agreement.

C. Reporting Test Results. It is the Licensee's responsibility to ensure that all test results are reported promptly to the Board.

1. Immediate Report of Positive Test Results. Any test result evidencing any level of a Prohibited Substance, whether by urine or other sample, shall be reported to the Board by telephone and in writing within 24 hours or as soon thereafter as possible.

2. Reporting Negative Test Results. Written reports of all tests shall be sent to the Board monthly, together with an explanation of the dates and times samples were provided and tests made, the type(s) of tests made, and the substances tested for (together with detectable levels tested for), and the test results. The Licensee shall ensure that all reports are made to the Board in a timely fashion.

3. Confidentiality Waived. With regard to the Board and its agents and any process to be pursued by the Board, the Licensee hereby waives all claims of confidentiality and privilege with respect to all tests taken pursuant to this Consent Agreement.

D. Rebuttable Presumption Raised by Positive Test. It is agreed and understood that a test evidencing any Prohibited Substance, when confirmed, shall raise a rebuttable presumption that such substance was in fact used by the Licensee. Such a positive test result shall alone be sufficient to prove the use of the Prohibited Substance by the Licensee. The Licensee further agrees that the result of the test may be admitted into evidence in any proceeding regarding the Licensee's license, whether before the Board or before a Court of competent jurisdiction. The confirmatory test shall be performed immediately upon any initial positive test result and it may also be admitted into evidence in any proceeding regarding the Licensee's license

E. Immediate, Indefinite, Automatic Suspension for Positive Test. If any urine or blood test is positive (i.e., in any manner evidences any use of any Prohibited Substance), then the result shall be the immediate, indefinite, automatic suspension of the Licensee's license, which shall continue until the Board holds a hearing on the matter, unless the Board, or the Board Secretary and the Department of Attorney General, earlier determine that the report is without merit. The suspension shall begin the moment the Licensee first learns of a positive test or report of a positive test to the Board, whether from the Supervising Physician or his designee, from the Board or from any other source in writing, orally or by any other means. This shall include non-confirmed, positive tests.

F. Board Hearing to Determine if Licensee Used Any Prohibited Substance. After receiving a positive report evidencing use by the Licensee of any Prohibited Substance, the Board shall investigate the situation, including demanding a response from the Licensee. The Board will hold a hearing within 60 days of the automatic suspension or as soon thereafter as practicable (unless both the Licensee and the Board agree to hold the hearing later) and it shall be held pursuant to the Maine Administrative Procedure Act.

G. Failure to Maintain Sampling Schedule or Failure to Appear or to Provide Sample. Failure by the Licensee: to maintain the sampling schedule; to appear when demanded to provide a sample; or to provide samples upon being demanded to do so shall be dealt with as follows:

1. Failure to Maintain Sampling Schedule. It is the Licensee's responsibility to ensure that both the schedule for sampling and the random sampling required are maintained.

a. Report. If the scheduled samples or the random samples are not drawn as required, then the Monitoring Physician or his/her designee and the Licensee (and any other person knowledgeable of such failure) must telephone the Board as soon as possible and send to the Board a written report of such failure within 48 hours.

b. Suspension. An immediate, indefinite suspension of licensure shall result from any failure by the Licensee to comply with the mandated schedule of samples or if the random samples are not provided as required. The suspension shall begin the moment the Licensee actually learns a report has been made or sent to the Board.

c. Meeting with Board. Both the Licensee and the Monitoring Physician (and the responsible designee, if any) shall appear before the Board regarding this situation at its next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the suspension, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

d. Board Action. The Board may order the Licensee's license reinstated or, if appropriate, may continue the suspension and may set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation, reinstatement, fines, probation, suspension, non-renewal and revocation.

2. Failure to Appear.

a. Report and Meeting with Board. The Licensee and the Monitoring Physician (and the responsible designee, if any) must telephone the board as soon as possible and send to the board a written report of such occurrence within 48 hours, and both the Licensee and the Monitoring Physician shall appear before the

Board, regarding any failure to appear when demanded to provide a sample, at the next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the report, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

b. Suspension. An immediate, indefinite suspension of licensure shall result from any failure by the Licensee to appear for a scheduled or randomly ordered test, unless the Licensee and the Supervising Physician present the failure as having been caused by a genuinely emergent circumstance beyond the Licensee's control, as long as the Licensee appeared within six hours of the resolution of the emergency. Except in this instance, the suspension shall begin the moment the Licensee actually learns a report has been made or sent to the Board.

c. Board Action. The Board may order the Licensee's license reinstated or, if appropriate, may continue the suspension and set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as practicable, at which time it may take such action as it deems appropriate, including without limitation reinstatement, fines, probation, suspension, non-renewal and revocation.

3. Failure to Provide Sample.

a. Report and Meeting with Board. The Licensee and the Monitoring Physician (and the responsible designee, if any) shall telephone the Board as soon as possible and send to the Board a written report of any occurrence regarding failure or refusal to provide a sample within 48 hours, and both the Licensee and the Monitoring Physician shall appear before the Board at the next regularly scheduled Board meeting, unless the next meeting is to be held within 15 days of the report, in which case they may be scheduled to appear at the subsequent regularly scheduled Board meeting.

b. Second Opportunity to Provide Urine Sample. If the Licensee appears when scheduled or ordered, but fails to provide an adequate sample, then with regard to urine, after accurate notation of any and all substances consumed (no substance shall be consumed which might affect the accuracy of the tests to be performed), a second opportunity to provide a urine sample shall be given after a reasonable time, not to exceed two hours. A repeat failure or any refusal shall result in an immediate, indefinite suspension of licensure. The suspension shall begin the moment of the occurrence.

c. Board Action. The Board may order the Licensee's license reinstated, or, if appropriate, may continue the suspension and set the matter for hearing. The Board shall attempt to hold a hearing within 60 days of the automatic suspension, or as soon thereafter as is practicable, at which time it may take such action as it deems appropriate, including without limitation reinstatement, fines, probation, suspension, non-renewal and revocation.

H. Amendment of Testing Provisions. Upon written application by the Licensee to the Board, the Board may amend the above agreed conditions for testing as long as such changes are otherwise consistent with the schedule set forth in this Consent Agreement. Amendment from the conditions shall be in the discretion of the Board and shall be based upon such information as the Board deems pertinent. A decision may be made by the Board, in its discretion, with or without providing a hearing. The Board can propose Amendment(s), which may or may not be agreed to by the Licensee.

I. Increasing Testing. For good cause shown (i.e., questionable reports or problems with providing samples), the Board can, in its discretion, without hearing, unilaterally increase the frequency of testing to the highest levels contemplated by this Consent Agreement, and may also add an additional four random tests per month. In addition, the Board may, in its discretion, without a hearing, extend the periods of testing by up to an additional five years.

4. PROFESSIONAL MANAGEMENT.

The Licensee agrees to participate in psychotherapy with a Board approved therapist in order to address issues of anger management and power and control in interpersonal functioning as described in the Siegel evaluation of May, 2003. The therapy will continue until the therapist notifies the Board that treatment is no longer necessary or useful. The Licensee will then appear before the Board to determine whether cessation of therapy is appropriate. The Licensee must have Board approval before changing his therapist.

5. SELF-HELP GROUP MEETINGS.

A. Attendance at AA and NA. The Licensee agrees to attend Alcoholics Anonymous ("AA") and/or Narcotic Anonymous ("NA") a minimum of three times

each week through one year from the effective date of this agreement and at least once each week through four years thereafter.

B. Impaired Physicians Self-Help Group. The Licensee agrees that he shall attend self-help group meetings of an impaired medical professional group, if available, on a regular basis for the term of this agreement. Meetings of the impaired professional self-help groups may be substituted on a one-for-one basis with meetings of AA or NA.

C. Reports of Attendance. The Licensee shall submit a signed, written quarterly report of his attendance at AA, NA or impaired professional self-help group meetings to the Board beginning three months after the signing of this Agreement. Any instances of failure to attend the required numbers of meetings shall be noted, together with specific explanation detailing reasons.

D. Failure to Meet This Requirement. It is the parties' understanding that, periodically, reasonable explanations may exist for occasionally missing a meeting; however, unexcused continuous or repeated failures to comply with the requirements of this section of the Consent Agreement shall constitute a violation of the Consent Agreement which, after hearing before the Board, can result in licensure discipline, including without limitation a fine, suspension, non-renewal, probation or revocation of the Licensee's conditional license.

6. MAINTENANCE OF OBLIGATIONS WHEN AWAY FROM MAINE OR HOME. The Licensee agrees to maintain his obligations regarding substance monitoring and self-help group meetings at all times, including times when he is away from home but within the continental limits of the United States. The Licensee will notify the Director of the Physician's Health Program sufficiently in advance of travel to make whatever arrangements the Director deems appropriate for monitoring before he leaves. It shall be the Licensee's obligation to ensure that arrangements are made consistent with this Consent Agreement in such other location(s) to ensure the continuation and satisfaction of his obligations under this Consent Agreement. Any such occurrences shall be noted in writing sent to the Board explaining the arrangements made and how the arrangements were carried out.

Failure to meet the conditions outside of Maine shall be dealt with in the same manner as failure otherwise to maintain the obligations of this Consent Agreement.

7. INVOLVEMENT IN THE MAINE COMMITTEE ON PHYSICIANS' HEALTH. The Licensee shall continue his contractual involvement with the Maine Committee on

Physicians' Health as long as this Consent Agreement remains in force. The Licensee is encouraged to actively participate in the Committee's program.

8. MONITORING OF BEHAVIOR. The Licensee agrees that his behavior will be monitored by a health care provider, approved by the Board, who is in regular contact with the Licensee, i.e. an average of four or five times a week. This provider will agree to inform the Board if the Licensee demonstrates any signs of withdrawal or behavior change which could result from the use of a Prohibited Substance. The provider shall report such information by telephone and in writing within 24 hours or as soon thereafter as possible.

9. NOTICE TO HOSPITALS. Within 10 days after execution of this agreement by the Board and approved by the Department of Attorney General, the Licensee shall provide a copy of this Consent Agreement to:

A. The Hospital. Notice to all hospitals at which the Licensee practices shall be provided, at a minimum, to the Hospital CEO and the Hospital Medical Director.

B. Others. Any other entity or person involved in the monitoring or treatment process which or whom the Board deems appropriate shall receive and review this Consent Agreement.

10. TERM OF CONSENT AGREEMENT. The term of this Agreement is five (5) years from December 31, 2002.

11. MAINTAINENCE OF LICENSE. The Licensee shall be required to maintain his Maine license to practice medicine for as long as this Agreement is in effect. In the event that the Licensee applies for licensure in other jurisdictions during the term of this Agreement, the Licensee shall notify said jurisdiction of the existence of this Agreement.

12. WAIVER OF CONFIDENTIALITY AND RELEASE OF RECORDS. The Licensee agrees and understands that the Board and the Department of Attorney General shall have complete access to the Licensee's present and future personal medical and counseling records regarding chemical dependency and mental health issues and to all otherwise confidential data pertaining to treatment or monitoring of the Licensee for substance abuse.

13. MISCELLANEOUS PROVISIONS.

A. Notice. Unless otherwise specified in this Consent Agreement, written notice shall be deemed served upon mailing by first class mail, postage prepaid.

1. Notice to the Board:

State of Maine Board of Licensure in Medicine
Attention: Assistant Executive Director
137 State House Station
Augusta, Maine 04333-0137
Telephone: (207) 287-3601

2. Notice to the Licensee:

Robert J. Struba, M.D.
P. O Box
Belfast, ME

B. Address Change. If the Licensee changes jobs, moves his residence or practice, changes telephone numbers at work or at home, or secures privileges at a hospital; the Licensee shall provide notice to the Board

C. Costs. All costs incurred in performance of the Modifications and Conditions of this Consent Agreement shall be borne by the Licensee. If a violation of this Consent Agreement is proven to have occurred, regardless of the sanctions imposed, the Board may require the Licensee to reimburse the Board for all costs and attorney's fees incurred in proving such violation.

D. Hearings. Unless otherwise specified, hearings shall be held consistent with the Maine Administrative Procedure Act.

E. Severance. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.


14. AMENDMENT OF CONSENT AGREEMENT. This Consent Agreement cannot be amended orally. It can be amended only by a writing signed by the parties hereto and approved by the Department of Attorney General. Requests for amendments made by the Licensee shall be made in writing submitted to the Board.

15. ADVICE OF COUNSEL. The Licensee has been represented by an attorney who has participated in the negotiation of this Consent Agreement on his behalf.

16. WAIVER OF RIGHT TO APPEAL BOARD'S DECISION AND CERTAIN FUTURE BOARD DECISIONS. In regard to all terms and conditions of this Consent Agreement, the Licensee waives any further hearings or appeal to the Court. Nothing in this paragraph shall be deemed a waiver of the Licensee's rights under rule, statute or the Maine or United States Constitutions, to appeal a decision or action later taken by the Board which is unrelated to the terms or enforcement of this Agreement. The Licensee agrees that this Consent Agreement and Order is a final order resolving the Licensee's application for Licensure. It is also a public document and reportable to the appropriate data banks as discipline.

I, ROBERT J. STRUBA, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT 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: 10/7/04


Robert J. Struba, M.D.

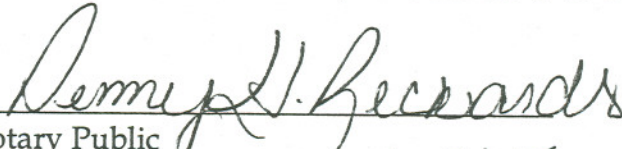
STATE OF MAINE

Waldo, ss.


Dated: 10/7/04

Personally appeared before me the above named Robert J. Struba, 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.

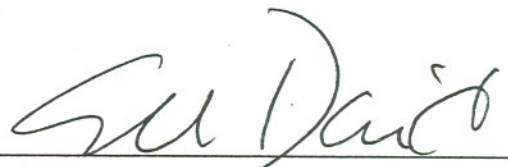

Notary Public
My Commission Expires: 6/9/05

Dated: 9.28.04


KENNETH W. LEHMAN., Esq.
Counsel to Dr. Robert J. Struba

STATE OF MAINE BOARD OF
LICENSURE IN MEDICINE

Dated: 10/12/04


Edward David, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF ATTORNEY GENERAL

Dated: 10/12/04


Ruth E. McNiff
Assistant Attorney General

EFFECTIVE DATE: