

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Valerie S. Attia, P.A.-C)	AGREEMENT
Complaint No. CR13-65)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician assistant in the State of Maine held by Valerie S. Attia, P.A.-C. The parties to the Consent Agreement are: Valerie S. Attia, P.A.-C (“Ms. Attia”), 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. The Board first issued Ms. Attia a license to practice as a physician assistant in the State of Maine on February 15, 2006. Pursuant to 32 M.R.S. § 3270-B, physician assistant licenses are renewed biennially; however, Board Rule Chapter 2, Section 4(A) provides that the “license of every physician assistant born in odd-numbered years shall expire after March 31 of the following odd-numbered year.” Since Ms. Attia was born in an odd-numbered year, her initial physician assistant license was due to expire after March 31, 2007, unless she earlier renewed it. The Board received applications from Ms. Attia to renew her physician assistant license in 2009, 2011, and 2013, and renewed her license on each occasion.

2. On March 30, 2009, the Board received an application and accompanying fee as required by Board Rule Chapter 2, Section 6(A)(3) from Ms. Attia for authority to prescribe Schedule II drugs while under the supervision of an orthopaedic surgeon. On April 14, 2009, the Board granted Ms. Attia authority to prescribe Schedule II drugs. Pursuant to Board Rule

Chapter 2, Section 6(A)(3)(b) "Schedule II prescribing authority terminates with the expiration of the physician assistant's license and/or the termination of the plan of supervision." In addition to this reference regarding the duration and expiration of Schedule II prescribing authority, there are two other Board documents that informed Ms. Attia of the duration and expiration of such authority: (1) an information sheet entitled "Request for Schedule II Prescriptive Authority for Physician Assistants," which states that the "request for authority to prescribe Schedule II drugs will be effective until the PA's next license renewal date and, if desired, must be renewed every two years thereafter...;" and (2) a Board letter dated April 15, 2009, sent to Ms. Attia and her supervising physician granting her Schedule II prescribing authority and specifically stating "[t]he authority for Valerie [Attia], PA-C to prescribe Schedule II drugs as outlined above is granted until the medical license must be renewed, which is March 31, 2011. It is your responsibility to keep track of the expiration date and to apply for renewal of the authority."

3. On March 17, 2010, the Board received a two-page facsimile communication from Ms. Attia with a subject line stating: "PA Schedule II Rx status." The facsimile cover page stated "We spoke a few minutes ago regarding my schedule II Rx prescribing status. Here's my new info. Thank you. Valerie." The facsimile informed the Board of Ms. Attia's new employer and office location, and that her supervising physician remained the same; however, the facsimile received by the Board did not include an application to renew her Schedule II prescribing authority.

4. On March 23, 2011, the Board renewed Ms. Attia's physician assistant license following its receipt of her license renewal application. According to Board records, it did not receive an application from Ms. Attia to renew her Schedule II prescribing authority, which expired on March 31, 2011.

5. On March 6, 2013, the Board renewed Ms. Attia's physician assistant license following its receipt of her license renewal application. In addition, Ms. Attia inquired of the Board staff about renewing her Schedule II prescribing authority. Board staff determined that Ms. Attia had obtained Schedule II prescribing authority in 2009, but had not renewed her authority in 2010 or in 2011 when she renewed her physician assistant license. According to Board records, Ms. Attia had not submitted an application and/or fee to renew her Schedule II prescribing authority. In addition, the Board staff learned through the prescription monitoring program ("PMP") that Ms. Attia had prescribed Schedule II medications from 2011 to 2013, during which time she had no authority from the Board to prescribe Schedule II medications. On March 6, 2013, Ms. Attia subsequently submitted to the Board an application and fee to renew her Schedule II prescribing authority.

6. On April 9, 2013, the Board reviewed the foregoing information, and voted to initiate a complaint against Ms. Attia's physician assistant license pursuant to 32 M.R.S. § 3282-A alleging unprofessional conduct and a violation of Board statutes or rules based upon Ms. Attia's prescribing of Schedule II medications to patients from 2011 to 2013, during which time she did not have Schedule II prescribing authority granted by the Board. The Board docketed the complaint as CR13-65 and sent it to Ms. Attia for a written response.

7. On or about April 23, 2013, the Board received a response from Ms. Attia to complaint CR13-65. In her response, Ms. Attia indicated that she "completed an application for Schedule II prescribing at the end of February of 2010, and worked with [Board staff] to make sure that [the Board] received all of the required applications and fees." According to Ms. Attia, she "faxed [to the Board staff] the application after having [her] supervising physician sign it in addition to [her] new employment information on March 17, 2010." Ms. Attia provided the

Board with a copy of the application for Schedule II prescribing authority dated February 19, 2010, which contained no facsimile cover sheet, as well as the March 17, 2010 facsimile cover sheet titled "PA Schedule II Rx Status" and the second page with updated contact information. Ms. Attia indicated that she took these measures in 2010 because she had changed locations of her employment, resulting in her having to assume the duties of completing all licensing paperwork, and was married resulting in a name change. Thereafter, Ms. Attia assumed that "everything was in order" and that her Schedule II prescribing authority "was renewed." However, Ms. Attia's response did not address by what method (i.e. check, cash or credit card) or when she actually provided the renewal fee for her Schedule II prescribing authority to the Board in 2010 as required by Board Rule Chapter 2, Section 6(A)(3)..

8. On July 9, 2013, the Board reviewed complaint CR13-65, including Ms. Attia's response to the complaint. During its review it noted that the facsimile coversheet provided by Ms. Attia, together with the second page with updated contact information, matched the information in the Board's files. In addition, it noted that the facsimile cover sheet indicated that there were only two pages, and that the subject matter was entitled "PA Schedule II Rx status," but did not contain a renewal application. The Board noted that its records did not contain either an application or fee from Ms. Attia to renew her authority to prescribe Schedule II medications. The Board also noted that its rule and its Schedule II authority letter to Ms. Attia notified her that her authority to prescribe Schedule II medications would expire on March 31, 2011, and required her to file a renewal application and fee with the Board in order to renew it. As a result, the Board concluded that Ms. Attia should not have continued to prescribe Schedule II medications after March 31, 2011, until she possessed a letter from the Board indicating that her Schedule II prescribing authority had, in fact, been extended to March 31, 2013. As a medical professional

and a licensee of the Board, Ms. Attia was responsible for ensuring that she had actually received the renewal of her Schedule II prescribing authority before continuing to prescribe Schedule II drugs. As a result, the Board voted to offer Ms. Attia this Consent Agreement in order to resolve complaint CR13-65 without further proceedings.

9. This Consent Agreement has been negotiated by legal counsel for Ms. Attia and legal counsel for the Board in order to resolve complaint CR13-65 without further proceedings, including an adjudicatory hearing. Absent Ms. Attia'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 August 29, 2013, the matter will be presented to the Board for further action.

10. By signing this Consent Agreement, Ms. Attia waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Ms. Attia and the Board agree to the following:

11. Ms. Attia admits that with regard to complaint CR13-65 the Board has sufficient evidence from which it could reasonably conclude that she prescribed Schedule II drugs from March 31, 2011 to March 31, 2013 without having Schedule II prescribing authority issued by the Board. Ms. Attia admits that such conduct constitutes unprofessional conduct and a violation of Board Rule Chapter 2, and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (H).

12. As discipline for the conduct described in paragraphs 1-11 above pertaining to complaint CR13-65, Ms. Attia agrees to accept, and the Board agrees to issue, the following discipline:

a. A CENSURE. As a licensee of the Board and a medical professional, Ms. Attia was responsible for ensuring that she, in fact, possessed current and valid authority from the Board prior to continuing to prescribe Schedule II drugs after March 31, 2011. Although the Board accepts Ms. Attia's representation that she did not willfully violate the Board's rule, she is ultimately responsible for ensuring that she possesses current and valid Schedule II prescribing authority from the Board. The Board urges Ms. Attia to ensure that this type of error does not occur again. Ms. Attia shall not hereafter prescribe any Schedule II medications until she possesses current and valid authority from the Board.

b. A MONETARY FINE of Two Hundred Fifty Dollars and Zero Cents (\$250.00). Ms. Attia shall ensure that she pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. In light of Ms. Attia's acceptance of responsibility in this matter and the lack of any evidence of patient harm, the Board agrees to grant Ms. Attia's pending application to renew her Schedule II prescribing authority upon the execution of this Consent Agreement.

14. Violation by Ms. Attia of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

15. Pursuant to 10 M.R.S. § 8003(5) the Board and Ms. Attia agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of her license, in the event that she fails to comply with any of the terms or conditions of this Consent Agreement.

16. Ms. Attia waives her right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Ms. Attia agrees that this Consent Agreement and Order is a final order resolving complaint CR13-65. This Consent Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

17. The Board and the Office of the Attorney General may communicate and cooperate regarding Ms. Attia or any other matter relating to this Consent Agreement.

18. 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.

19. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

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

21. The Board and Ms. Attia 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. 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 Ms. Attia 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 Ms. Attia's Maine physician assistant license.

22. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

23. Ms. Attia has been represented by Abigail C. Varga, Esq., who has participated in the negotiation of this Consent Agreement on her behalf.

24. Ms. Attia acknowledges by her signature hereto that she has read this Consent Agreement, that she has had an opportunity to consult with an attorney before executing this Consent Agreement, that she executed this Consent Agreement of her own free will and that she agrees to abide by all terms and conditions set forth herein.

I, VALERIE S. ATTIA, P.A.-C, 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: 8/26/13 Attia
VALERIE S. ATTIA, P.A.-C

STATE OF MAINE
CLIMBERLAND, S.S. (County)

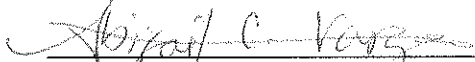
Personally appeared before me the above-named Valerie S. Attia, P.A.-C, and swore to the truth of the foregoing based upon her own personal knowledge, or upon information and belief, and so far as upon information and belief, she believes it to be true.

DATED: 8/26/13 Angelina Phillips
ANGELINA M. PHILLIPS
Notary Public, Maine
My Commission Expires June 18, 2019

NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: 6/18/19

DATED: 8/24/13


ABIGAIL C. VARGA, ESQ.
Attorney for Valerie S. Attia, P.A.-C

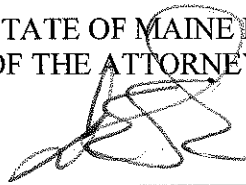
STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 9/10/13


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 9/10/13


DENNIS E. SMITH
Assistant Attorney General

Effective Date: 9/10/13