



Paul R. LePage
GOVERNOR

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

Maroulla S. Gleaton, MD
CHAIRMAN

Randal C. Manning, M.B.A.
EXECUTIVE DIRECTOR

February 14, 2014

John A. Boothby, M.D.
222 Auburn Street, Suite 3G
Portland, Maine 04103

RE: CONSENT AGREEMENT EXPIRATION

Dear Dr. Boothby:

This is to confirm that you have complied with the terms of your Consent Agreement dated February 14, 2012 and have successfully completed its requirements. The Consent Agreement will expire, effective February 14, 2014.

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 let me know if you have any questions. I can be reached at 287-6931.

Very truly yours,

Kathryn Levesque
Board Investigator

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
John A. Boothby, M.D.)	AGREEMENT
Complaint No. CR10-601)	

This document is a Consent Agreement, effective when signed by all parties, regarding a disciplinary action concerning and conditions imposed upon the license to practice medicine in the State of Maine held by John A. Boothby, M.D. The parties to the Consent Agreement are: John A. Boothby, M.D. (“Dr. Boothby”), 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. Boothby has held a license to practice medicine in the State of Maine since March 3, 1969, and specializes in Neurology.
2. On October 12, 2010, the Board issued Dr. Boothby a letter of guidance following an informal conference with Dr. Boothby and dismissal of a complaint filed against his medical license. The underlying complaint leading to the informal conference and the letter of guidance involved allegations of rudeness to a patient, her husband, and social worker. The letter of guidance encouraged Dr. Boothby to attend a course on communication, and urged Dr. Boothby to: treat patients and their family members “with respect”; “empathize with [his] patients and act at all times in a professional manner”; continue to utilize the skills he learned at “The Guthrie Clinic communication course in

future patient encounters”; and not abuse his “authority.” The Board placed the letter of guidance on file for ten years, and notified Dr. Boothby that it could access and consider it “in any subsequent action commenced” against his license within that time.

3. On or about December 17, 2010, the Board received a complaint from KH, the parent of minor patient GH, who alleged that during her son’s appointment with Dr. Boothby on November 30, 2010 that Dr. Boothby acted in an unprofessional manner by being rude, condescending, and throwing a tissue box at GH, who was crying. In addition, KH alleged that Dr. Boothby approached GH, asked if he was a “tough guy” and stated that he did “80 push-ups that morning.” KH alleged that Dr. Boothby’s behavior was “bizarre.” The Board docketed that complaint as CR10-601, and sent it to Dr. Boothby for a response.

4. On January 12, 2011, the Board received a written response from Dr. Boothby to complaint CR10-601. In his response, Dr. Boothby stated that GH had a “serious problem with anger management” and lacked “courtesy and respect” for him as a physician fifty years his elder. Dr. Boothby alleged that he wanted to impress upon GH and KH “the seriousness of a sport’s concussion,” a subject with which he has had personal experience and about which he is very passionate having been selected by the American Academy of Neurology to educate coaches, trainers, athletes and parents on this subject. Dr. Boothby admitted that perhaps, based upon his own personal experience, he was “emotional” in his discussion with GH and KH. Dr. Boothby admitted

that he tossed a box of tissues “a few feet into [GH’s] lap when he became tearful” after Dr. Boothby advised him not to participate in any contact sports. Dr. Boothby expressed surprise when GH threw the tissue box across the room “with considerable force.” According to Dr. Boothby, GH physically threatened him as he tried to examine GH, so Dr. Boothby “mentioned doing ‘push-ups’ simply to discourage [GH] from striking [Dr. Boothby] with a fist.” According to Dr. Boothby, both GH and KH left his office before he could schedule an MRI. In addition, Dr. Boothby asserted that he called GH’s primary physician, and told him about his interaction with GH and KH. Dr. Boothby asserted that GH’s primary physician stated “he was not surprised by [GH’s] actions or [KH’s] apparent lack of concern.”

5. On January 25, 2011, the Board received additional information from KH in reply to Dr. Boothby’s response. According to KH: GH never threw the tissue box; Dr. Boothby was the only one who acted in a threatening manner; GH only became confrontational after Dr. Boothby became so confrontational; and that GH’s primary physician actually told Dr. Boothby that “he was surprised to hear about [GH’s] alleged behavior and that he has never observed anything like that,” and that Dr. Boothby stated “I guess you’re not gonna be of any help to me” and hung up. KH invited the Board to contact GH’s primary physician to confirm the contents of that conversation.

6. On or about February 8, 2011, the Board reviewed complaint CR10-601, including Dr. Boothby’s response and all investigative information obtained to date, and voted to investigate the matter further by requesting

Board staff to interview GH's primary physician. In addition, the Board directed that Dr. Boothby undergo a neuropsychiatric evaluation pursuant to 32 M.R.S. § 3286 to evaluate Dr. Boothby's cognitive and emotional functioning.

7. On February 11, 2011, the Board investigator met with GH's primary physician. GH's primary physician told the Board's investigator that: he believed that Dr. Boothby took his statement out of context; he told Dr. Boothby that if he told GH that he could not play sports again then he could understand why GH would be so upset; that he told Dr. Boothby, when asked, that GH had never before acted in that manner with him; and that there were "two sides to this story" and that Dr. Boothby may have "twisted his words to support his side of the story."

8. On October 11, 2011, the Board reviewed complaint CR10-601, including the Board investigator's report and the neuropsychiatric evaluation. The neuropsychiatric evaluation report indicated that Dr. Boothby: admitted he might have told GH to "stop crying you cry baby" and that "it wasn't a good choice"; acknowledged that in hindsight he was "maybe lecturing too much... like an authority... [and that he] should have backed off but [he] didn't... [he] was trying to save his brain essentially"; and that he was "not empathic and could have handled it better." In addition, Dr. Boothby acknowledged to the evaluator that he probably said something like "I guess you're not going to be of any help to me" to GH's primary physician when Dr. Boothby called him after the incident with patient GH. The evaluation also revealed that at or around

the time of the incident with patient GH, Dr. Boothby had discontinued medications that he had been taking for some time, which may have contributed to Dr. Boothby's behavior. In addition, the evaluation indicated that Dr. Boothby does not suffer from any cognitive deficits. Following its review, the Board voted to schedule complaint CR10-601 for an adjudicatory hearing. In addition, the Board authorized its assigned legal counsel to negotiate a consent agreement to resolve complaint CR10-601 without an adjudicatory hearing.

9. This Consent Agreement has been negotiated by and between legal counsel for Dr. Boothby and legal counsel for the Board in order to resolve complaint CR10-601 without an adjudicatory hearing. Absent Dr. Boothby's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before February 6, 2012, the matter will be scheduled for an adjudicatory hearing. In addition, absent the Board's acceptance of this Consent Agreement by ratifying it, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Boothby and his legal counsel waive any and all objections to, and hereby consent to the presentation of this Consent Agreement to the Board by its assigned legal counsel for possible ratification. Dr. Boothby and his legal counsel also forever waive any arguments of bias or otherwise against any of the Board members based solely upon the Board's failure to ratify this proposed Consent Agreement.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Boothby agrees to the following :

11. Dr. Boothby admits that with regard to complaint CR10-601 the Board has sufficient evidence from which it could reasonably conclude that he engaged in unprofessional conduct, and that such conduct constitutes grounds for discipline of his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(F).

12. Dr. Boothby agrees to accept, and the Board agrees to issue, the following discipline effective upon execution¹ of this Consent Agreement:

a. A WARNING. Dr. Boothby is hereby warned by the Board for engaging in unprofessional conduct towards patient GH and his mother, KH. Dr. Boothby agrees never to engage in this type of conduct again.

b. A LICENSE PROBATION for TWO (2) years following the execution of this Consent Agreement. As specific conditions of probation, Dr. Boothby shall:

(i) Enroll in, attend, and successfully complete a Board-approved substantive course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement. The ethics and boundaries course must cover the topic of appropriate patient-physician boundaries. Dr. Boothby shall provide the Board with documentation of the

¹ For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

successful completion of this course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement.

(ii) Enroll in, attend, and successfully complete a Board-approved course in physician-patient communication within six (6) months following the execution of this Consent Agreement. The course must cover the topics of empathy and interaction. Dr. Boothby shall provide the Board with documentation of the successful completion of this course in medical ethics and boundaries within six (6) months following the execution of this Consent Agreement.

(iii) Within thirty (30) days following the execution of this Consent Agreement, Dr. Boothby shall send patient GH and his mother, KH, a letter of apology regarding his conduct on November 30, 2010. In complying with this condition, Dr. Boothby shall provide the Board with a copy of the letter of apology he sends to patient GH and his mother, KH, within thirty (30) days following the execution of this Consent Agreement.

(iv) Within one (1) year of the execution of this Consent Agreement, Dr. Boothby shall reimburse the Board \$1,145.45 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.

(v) Take all medications as prescribed to him by his treating physician(s).

13. Violation by Dr. Boothby 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.

14. Pursuant to 10 M.R.S.A. § 8003(5) the Board and Dr. Boothby agree that the Board has the authority to issue an order, following notice and hearing, modifying, suspending or revoking his license in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Boothby waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Boothby agrees that this Consent Agreement and Order is a final order resolving complaint CR10-601. 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. Boothby shall be made in writing and submitted to the Board. Dr. Boothby may, at reasonable intervals, petition the Board for amendment of the terms and conditions of this Consent Agreement. Upon making such a petition, Dr. Boothby shall bear the burden of demonstrating that the Board should amend the Consent Agreement. The Board shall have the discretion to: (a) deny Dr. Boothby's petition; (b) grant Dr.

Boothby's petition; and/or (c) grant Dr. Boothby'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.

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

17. 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.

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

19. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto, including any and all medical practice partners. If any clause of this Consent Agreement is deemed illegal or invalid, then that clause shall be deemed severed from this Consent Agreement.

20. The Board and Dr. Boothby 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 proven allegations are brought against Dr. Boothby 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. Boothby's license.

21. Dr. Boothby 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.

22. Dr. Boothby has been represented by Peter J. DeTroy, Esq., who has participated in the negotiation of the terms of this Consent Agreement.

I, JOHN A. BOOTHBY, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS AND AGREE TO ABIDE BY THEM. 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: 2/2/12

John A. Boothby, M.D.
JOHN A. BOOTHBY, M.D.

STATE OF Maine
Combeault, S.S.

Personally appeared before me the above-named John A. Boothby, 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.

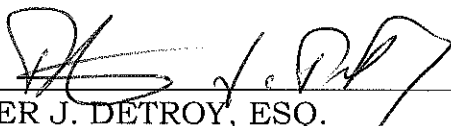
DATED: _____



NOTARY PUBLIC / ATTORNEY

MY COMMISSION ENDS: _____

DATED: 2-6-12



PETER J. DETROY, ESQ.
ATTORNEY FOR JOHN A. BOOTHBY,
M.D.

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE


DATED: 2/14/12



GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 2/14/12



DENNIS E. SMITH
Assistant Attorney General

Effective Date: 2/14/12