

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Richard T. Gibbs, M.D.)	AGREEMENT
Complaint No. CR09-219)	

This document is a 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 Richard T. Gibbs, M.D. The parties to the Consent Agreement are: Richard T. Gibbs, 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 ("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. On October 20, 2008, the Board issued Dr. Gibbs a temporary Maine medical license pursuant to 32 M.R.S.A. § 3276 to work as a pediatrician at Down East Community Hospital (DECH) in Machias, Maine. Dr. Gibbs' temporary Maine medical license expired on April 17, 2009.

2. Between October 2, 2008 and April 17, 2009, during the time that Dr. Gibbs possessed a current and valid temporary Maine medical license, he engaged in certain conduct more specifically described below. As a result, the Board has jurisdiction over Dr. Gibbs for the actions which form the basis of this complaint and Consent Agreement.

3. On April 6-7, 2009, the Board received information from CHG Healthcare regarding concerns about Dr. Gibbs' tardiness and absences from work at DECH. In addition, CHG notified the Board that in December 2008 Dr. Gibbs had been arrested for operating under the influence (OUI). On May 8, 2009, the Board received a copy of the Maine State Police

Report regarding Dr. Gibb's arrest for OUI on December 20, 2008. According to that police report, Dr. Gibb's blood-alcohol level was .30.¹

4. As a result of reviewing this information, the Board voted to initiate a complaint against Dr. Gibbs's Maine medical license. The Board docketed the complaint as CR09-219.

5. On July 21, 2009, the Board received Dr. Gibbs's response to complaint CR09-219. In his response, Dr. Gibbs admitted that:

- a. He has been diagnosed with episodic severe anxiety and comorbid depressive episodes since childhood;
- b. In December 2008, while working as a locum tenens pediatrician at DECH, he developed severe anxiety and depression and began "self-medicating" with alcohol;
- c. He "did not go to the clinic until [he] was sober and left as soon as [he] could," and that his attendance at work became more difficult, and that he did not attend work after December 12, 2008, "due to being intoxicated periodically;"
- d. He left his employment at DECH "without notice" following his arrest for OUI, and as a result of his mental health issues and the working conditions at DECH;
- e. Due to his anxiety, he always has a bottle of Librium with him, which he takes on an as needed basis. He brought the bottle of Librium that he had prescribed for himself from St. Croix to the U.S. Mainland in May 2008;
- f. As a result of the events in Maine, he decided to seek professional help, which was delayed due to his employment. He has been subsequently diagnosed with Bipolar Disorder and Generalized Anxiety Disorder.

¹ This level was 3.7 times the legal limit in Maine of .08. See 29-A M.R.S.A. § 2411.

6. On July 27, 2009, the Board received a belated report from DECH indicating that it had discontinued Dr. Gibbs' services due to his repeated failure to answer pages, return from meal breaks, and his lack of predictable availability to the hospital as a pediatrician.

7. On September 12, 2009, the Board reviewed Complaint CR09-219. Following its review, the Board voted to schedule the matter for an adjudicatory hearing. In addition, the Board authorized its legal counsel to negotiate a consent agreement to resolve Complaint CR09-219 without an adjudicatory hearing.

8. Absent Dr. Gibbs' acceptance of this Consent Agreement by signing and dating it in front of a notary public and returning it to Maureen Lathrop, Administrative Secretary, Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before November 9, 2009, the matter will be scheduled for an adjudicatory hearing.

9. This Consent Agreement has been negotiated by Dr. Gibbs and counsel for the Board in order to resolve all matters pending before the Board, including complaint CR09-219 without an adjudicatory hearing. Absent ratification of this proposed Consent Agreement by a majority vote of the Board on November 10, 2009, the matter will be scheduled for an adjudicatory hearing.

10. By signing this Consent Agreement, Dr. Gibbs waives, in his personal capacity and through legal counsel, any and all objections to, and hereby consents to the presentation of this proposed Consent Agreement to the Board for possible ratification. Dr. Gibbs waives, in his personal capacity and through legal counsel, forever 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

11. Dr. Gibbs admits that with regard to CR09-219 that the Board has sufficient evidence from which it could reasonably conclude that: (a) he inappropriately used alcohol and Librium in order to self-manage his severe anxiety and depression; (b) he was repeatedly tardy and absent from his duties as a physician due to his self-medication and intoxication from his use of alcohol, and that he left DECH without notice; and (c) he was arrested for OUI with a blood-alcohol content of .30. Dr. Gibbs admits that such conduct constitutes evidence of unprofessional conduct and habitual substance abuse foreseeably likely to result in his performing services in a manner that jeopardized patient safety, and grounds for discipline of his temporary Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(B) & (F).

12. As discipline for the conduct described in paragraph 11 above, Dr. Gibbs agrees to:

- a. Accept a REPRIMAND. Dr. Gibbs agrees that henceforth:
 - (1) He shall not self-medicate with alcohol or any other drug or medicine not specifically prescribed to him by a licensed medical professional other than himself;
 - (2) He shall only obtain his prescription medication(s) from a single primary care physician, who must be a licensed healthcare provider;
 - (3) He shall only obtain his prescription medications from a single pharmacy designated by his primary care physician; and
 - (4) He shall comply with the conditions of this Consent Agreement as set out below.

b. Abstain completely from the use of any and all Prohibited Substances.

“Prohibited Substances” as used in this Consent Agreement shall mean: alcohol, opiates, narcotics, benzodiazepines, sedatives, hypnotics or similar drugs, mood, consciousness or mind-altering substances, whether illicit or not, and any other drug or medication that is not

specifically and legally prescribed to him by his primary care physician, who must be a licensed healthcare professional. Dr. Gibbs shall notify his primary care provider and any other healthcare provider involved in his care and treatment of his substance abuse history.

c. Enroll in and successfully participate in the Pennsylvania Physicians' Health Program or the New Mexico Monitored Treatment Program.

d. Within thirty (30) days following the execution² of this Consent Agreement, provide a copy of this Consent Agreement to:

(1) The licensing authority/board of ANY jurisdiction, whether located inside or outside of the United States, where he holds a current license to practice medicine;

(2) The licensing authority/board of ANY jurisdiction, whether located inside or outside of the United States, where he applies for a license to practice medicine;

(3) ANY hospital or medical practice with whom he seeks to become affiliated or with whom he becomes affiliated;

(4) His current employer and ANY future employer or prospective employer; and

(5) His primary care provider and ANY other healthcare professional involved in his care and treatment.

13. Dr. Gibbs waives his right to a hearing before the Board or any court regarding all facts, terms and conditions of this Consent Agreement. Dr. Gibbs agrees that this Consent Agreement is a final order resolving the complaint CR09-219. 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. Gibbs

² For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

shall be made in writing and submitted to the Board. The Board shall have the discretion to: (a) deny Dr. Gibbs's request; (b) grant Dr. Gibbs's request; and/or (c) grant Dr. Gibbs's request in part as it deems appropriate to ensure the protection of the public. Any decision by the Board as a result of Dr. Gibbs's request to modify this Consent Agreement need not be made pursuant to a hearing and is not appealable to any court.

14. Dr. Gibbs acknowledges that, pursuant to Title 10 M.R.S.A. § 8003(5)(B), his failure to comply with any of the terms or conditions of this Consent Agreement shall constitute grounds for additional disciplinary action against his temporary Maine medical license.

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

16. 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.

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

18. The Board and Dr. Gibbs 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.

19. Dr. Gibbs 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 she agrees to abide by all terms and conditions set forth herein.

I, RICHARD T. GIBBS, 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: 11/3/09

[Signature]
RICHARD T. GIBBS, M.D.

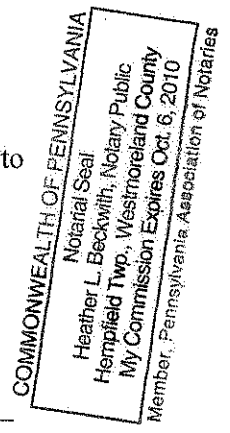
STATE OF Pennsylvania

Westmoreland County, S.S.

Personally appeared before me the above-named Richard T. Gibbs, 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: 11-3-09

[Signature]
NOTARY PUBLIC/ATTORNEY
MY COMMISSION ENDS: 10-6-10



STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 11/10/09

[Signature]
SHERIDAN R. OLDHAM, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

RECEIVED
DATED: 11/10/09

[Signature]
DENNIS E. SMITH
Assistant Attorney General

Effective Date: 11/10/09