

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

IN RE:	)	CONSENT AGREEMENT
LESLIE C. HARDING, M.D.	)	FOR DISCIPLINE AND
Complaint Nos. CR10-475/582	)	RESTRICTED/CONDITIONAL
	)	LICENSURE

This document is a Consent Agreement For Discipline and Restricted/Conditional Licensure, effective when signed by all parties, regarding discipline imposed upon and the issuance of an active conditional license to practice medicine in the State of Maine to Leslie C. Harding, M.D. The parties to this Consent Agreement are: Leslie C. Harding, M.D. ("Dr. Harding"), the State of Maine Board of Licensure in Medicine (the "Board") and the Maine Office of the Attorney General.

STATEMENT OF FACTS

1. The Board first issued Dr. Harding a medical license on July 11, 1978. Dr. Harding specializes in Internal Medicine.
2. On October 12, 2010, the Board reviewed information received from Franklin's Women's Healthcare (FWH) expressing concerns regarding Dr. Harding's prescribing of controlled drugs to a pregnant patient. FWH provided a copy of a letter sent to Dr. Harding in follow-up to two (2) telephone calls regarding medical management of the female patient, his prescribing opiates and benzodiazepines for the patient during her pregnancy and concerns about possible drug diversion. In addition, the Board reviewed the patient's medical records from FWH. Following its review of this information, the Board voted to

initiate a complaint against Dr. Harding's Maine medical license. The Board docketed the complaint as CR10-475, and sent it, together with a subpoena for the patient's medical records, to Dr. Harding for a response.

3. On November 9, 2010, the Board received a written response to complaint CR10-475, together with the patient's medical records, from Dr. Harding.

4. On December 14, 2010, the Board reviewed complaint CR10-475, and voted to schedule the matter for an informal conference with Dr. Harding regarding the following issues:

- a. Dr. Harding's medical management of the patient;
- b. Dr. Harding's failure to advise the patient's obstetrical providers that he was prescribing methadone for her during her pregnancy; and
- c. Dr. Harding's failure to conduct pills counts or urine toxicology screens to ensure the patient was not diverting her medications.

5. On December 14, 2010, the Board also reviewed an article from the *Lewiston Sun Journal* regarding the arrest of a patient for allegedly diverting her opiate medication. Board staff performed a check of the Prescription Monitoring Program (PMP), and learned that Dr. Harding had been prescribing controlled drugs to the patient. Following its review of this information, the Board voted to initiate a complaint against Dr. Harding's Maine medical

license. The Board docketed the complaint as CR10-582, and sent it, together with a subpoena for the patient's medical records, to Dr. Harding for a response.

6. On January 28, 2011, the Board received a written response to complaint CR10-582, together with the patient's medical records, from Dr. Harding.

7. On March 8, 2011, the Board reviewed complaint CR10-582, and voted to schedule the matter for an informal conference with Dr. Harding regarding the following issues:

- a. The failure to attempt to seek other appropriate medical treatment for the patient (besides prescribing narcotic medications);
- b. The failure to recognize and respond to escalating doses and early refills for narcotics by the patient;
- c. The failure to perform random urine screens and pills counts regarding the patient to help prevent potential diversion; and
- d. Dr. Harding's prescribing of certain narcotics for long-term use by the patient.

8. On July 12, 2011, the Board held an informal conference with Dr. Harding regarding complaints CR10-475 and CR10-582, during which it discussed with him the issues identified above. In addition, the Board discussed with Dr. Harding the letter of guidance that it issued to him on November 15, 2006, regarding a prior complaint concerning his prescribing

practices for controlled drugs. The letter of guidance recommended that Dr. Harding:

- a. Continue to gain a better understanding of the medications he prescribed;
- b. Determine and enforce significant consequences for patient violation of written pain contracts;
- c. Manage medications by titrating more deliberately; and
- d. Continue his education to develop appropriate monitoring systems for chronic pain.

Following the informal conference, the Board voted to schedule complaints CR-475 and CR10-582 for an adjudicatory hearing. In addition, the Board voted to authorize its assigned legal counsel to negotiate a consent agreement with Dr. Harding to resolve complaints CR10-475 and CR10-582 without hearing.

9. This Consent Agreement has been negotiated by and between legal counsel for Dr. Harding and the Maine Office of the Attorney General in order to resolve complaints CR10-475 and CR10-582 without an adjudicatory hearing. Absent Dr. Harding's acceptance of this Consent Agreement by signing it, dating it, having it notarized, and returning it to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before November 18, 2011, the Board will resolve these matters by holding a consolidated adjudicatory hearing at a later date.

10. By signing this Consent Agreement, Dr. Harding waives any and all objections to, and hereby consents to allow the Board's legal counsel to present this proposed Consent Agreement to the Board for possible ratification. Dr. Harding also forever waives 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

In lieu of proceeding to an adjudicatory hearing the Board and Dr. Harding agree to the following disposition.

11. Dr. Harding concedes that based upon the facts described in paragraphs 1 to 10 above that the Board has sufficient evidence from which it could conclude that he failed to meet the standards of care by:

a. CR10-475: failing to advise the patient's obstetrical providers that he was prescribing methadone for her during her pregnancy; and failing to conduct pills counts or urine toxicology screens to ensure the patient was not diverting her medications.

b. CR10-582: failing to attempt to seek other appropriate medical treatment for the treatment of the patient's chronic pain (besides prescribing narcotic medications); failing to recognize and respond to escalating doses and early refills for narcotics by the patient; failing to perform random urine screens and pills counts regarding the patient to help prevent potential diversion; and prescribing of certain narcotics for

long-term use by the patient.

~~Dr. Harding concedes that such conduct, if proven, could constitute grounds for discipline and the denial of his application to renew his Maine medical license pursuant to 32 M.R.S.A. § 3282-A(2)(B).~~ (H) LH

12. ~~As discipline for the conduct admitted above, Dr. Harding agrees to:~~

a. Accept a REPRIMAND. As a medical professional, Dr. Harding was responsible for being aware of and complying with accepted standards of care for the diagnosis and treatment of chronic pain.

b. Reimburse the Board Three Hundred Dollars and Zero Cents (\$300.00) as costs of the investigation of this matter. Dr. Harding shall ensure that he makes full payment of reimbursement to the Board within six (6) months following the execution of this Consent Agreement. 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.

c. Accept the following license restriction: Dr. Harding shall immediately cease prescribing any controlled medications (i.e. narcotics, including all opiates and opioids) for the treatment of chronic pain except for:

- (i) Patients in skilled nursing facilities or long-term care facilities;

(ii) Patients in hospice care; or

~~(iii) Patients with metastatic cancer.~~

Dr. Harding may prescribe controlled substances for no more than ten (10) consecutive days to treat acute conditions. In addition, to the extent that Dr. Harding prescribes any controlled drugs to patients for acute pain, Dr. Harding shall comply with Board Rule, Chapter 21, "Use of Controlled Substances For Treatment of Pain." In complying with this restriction, Dr. Harding agrees to cooperate with the Board, including permitting the Board or its agent(s) to inspect the medical records of his practice.

13. Dr. Harding waives his right to a hearing before the Board or any court regarding all findings, terms, restrictions and conditions of this Consent Agreement. Dr. Harding agrees that this Consent Agreement is a final order resolving complaints CR10-475 and CR10-582. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing 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.

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

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

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

17. The Board and Dr. Harding agree that no further agency or legal action will be initiated against him by the Board based upon complaints CR10-475 or CR10-582, except or unless he fails to comply with the terms and conditions of this Consent Agreement.

18. Dr. Harding acknowledges that, pursuant to Title 10 M.R.S. § 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 Maine medical license, including but not limited to an order, after hearing, imposing additional fines and costs.

19. Dr. Harding acknowledges and agrees that, pursuant to Title 10 M.R.S. § 8003(5), the Board has the authority to suspend or revoke his medical license in the event that he fails to comply with any terms or conditions of this Consent Agreement.

20. Dr. Harding has been represented by David M. Sanders, Esq., who has participated in the negotiation of this Consent Agreement.

21. Dr. Harding 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, LESLIE C. HARDING, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING IT, 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 15, 2011

Leslie Harding  
LESLIE C. HARDING, M.D.

STATE OF Maine  
Andrew Scoggin, S.S.

Personally appeared before me the above-named, Leslie C. Harding, 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: 11/15/11

[Signature]  
NOTARY PUBLIC/ATTORNEY

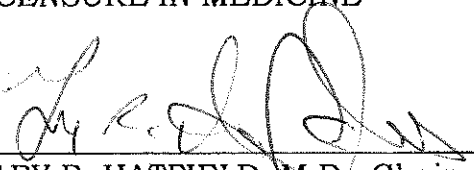
MY COMMISSION ENDS: \_\_\_\_\_

Dated: 11/15/11

[Signature]  
DAVID M. SANDERS, ESQ.  
Attorney for Leslie C. Harding, M.D.

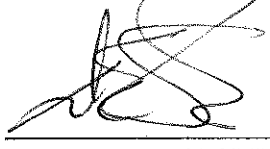
STATE OF MAINE BOARD OF  
LICENSURE IN MEDICINE

Dated: 12/13/11

  
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GARY R. HATFIELD, M.D., Chairman

STATE OF MAINE DEPARTMENT  
OF ATTORNEY GENERAL

Dated: 12/13/11

  
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DENNIS E. SMITH  
Assistant Attorney General

Effective Date: 12/13/11