

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

Juan C. Lazaro, M.D.)
) CONSENT AGREEMENT
) FOR CONTINUATION
) OF SUMMARY SUSPENSION

This document is a Consent Agreement entered into by Juan C. Lazaro, M.D. ("the Licensee"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Maine Department of 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.

At its meeting on September 14, 2004, the Board voted to summarily suspend the medical license of the Licensee, pursuant to 5 M.R.S.A. § 10004. The Board also issued complaints against the Licensee and scheduled a hearing on the summary suspension for October 12, 2004.

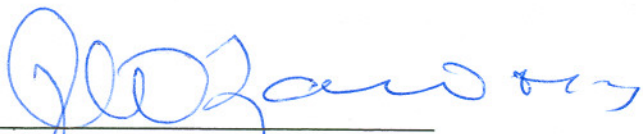
The Licensee agrees that he will not practice medicine or render any professional health care services to any person in the State of Maine or in any other location under his Maine medical license until the matters currently pending before the Board are decided.

The Board will hold a hearing on the summary suspension within sixty (60) days of a request by the Licensee for such a hearing.

The Licensee has been represented by counsel with respect to the terms of this agreement.

I, JUAN C. LAZARO, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. 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: 11-1-2004




JUAN C. LAZARO, M.D.

STATE OF Maine
Chumberland, S.S.

Personally appeared before me the above-named Juan C. Lazaro, 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: 11-1-2004



NOTARY PUBLIC
Attorney at Law


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 11-10-04


EDWARD DAVID, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 11/10/04


RUTH E. McNIFF
Assistant Attorney General

APPROVED
EFFECTIVE: 11/10/04



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

JOHN ELIAS BALDACCI
GOVERNOR

EDWARD DAVID, M.D.J.D.
CHAIRMAN

RANDAL C. MANNING
EXECUTIVE DIRECTOR

September 16, 2004

CERTIFIED MAIL 7003 2260 0002 9790 8812 .
RESTRICTED DELIVERY, RETURN RECEIPT REQUESTED

Juan C. Lazaro, M.D.
846 Main St
Westbrook, ME 04092

Re: Summary suspension of Maine medical license and notice of complaint

Dear Dr. Lazaro:

This letter will serve as official notice that your license to practice medicine and/or surgery in the State of Maine has been and is summarily suspended, effective September 14, 2004 in accordance with 5 M.R.S.A. §10004. The suspension is based on the review of investigative records from which the Board has determined that you are an imminent danger to the health and safety of your patients because of alleged violations of the following statutes and rules:

- A. 32 M.R.S.A. §3282-A(2)(E)(1)&(2) Incompetence
- B. 32 M.R.S.A. §3282-A(2)(F) Unprofessional Conduct
- C. 32 M.R.S.A. §3282-A(H) Violation of Chapter 10 Rules of the Board regarding sexual misconduct
- D. 32 M.R.S.A. §3282-A(J) Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than therapeutic purposes

The Board also issued a complaint based on the above allegations which are detailed in the enclosed investigative reports. You are required by statute to respond, in writing, within 30 days of receipt of this notice of complaint.

An Adjudicatory Hearing on this matter has been scheduled for October 12, 2004 at 1:30 p.m. or as soon thereafter on that date as possible. The hearing will be held in the conference room at the office of the Maine Board of Licensure in Medicine, lower level, 2 Bangor St, Augusta, Maine.

OFFICE LOCATION: TWO BANGOR STREET, AUGUSTA, ME

PHONE: (207) 287-3601

FAX: (207) 287-6590

Letter to Juan C. Lazaro, M.D.

Page Two

September 16, 2004

The following issue will be considered by the Board at the Adjudicatory Hearing:

- A. Whether your continued practice of medicine in Maine jeopardizes the health or physical safety of your patients based on the above allegations.

If the Board finds that the allegations are true, the Board shall then determine whether to take any action against your license. The Board may take such action as the statute empowers it to take, including but not limited to, reprimand, fine, probation, suspension, revocation, non-renewal, or any combination thereof, as deemed appropriate by the Board.

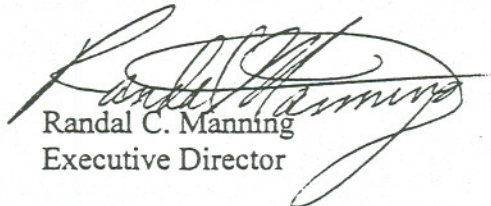
The Adjudicatory Hearing shall be held pursuant to the Maine Administrative Procedures Act, 5 M.R.S.A. §9051, et seq. The Adjudicatory Hearing will be held in Public Session of the Board.

You have the right to be represented by counsel of your choosing, and you should appear at the Adjudicatory Hearing accompanied by an attorney. You have the right to testify under oath, call witnesses, cross-examine witnesses and enter documents into evidence. Any request that you might have to serve subpoenas should be made as soon as possible, but in no event later than September 28, 2004.

Should you fail to appear for the Adjudicatory Hearing, the Board may hold the hearing in your absence, or the Board may enter a default judgement.

If you have any questions, please contact Assistant Attorney General Ruth McNiff at (207) 626-8494.

Sincerely,


Randal C. Manning
Executive Director

RCM/msl
CR 04-107
Enclosures

cc: Ruth McNiff, AAG
Kenneth Lehman, Esq. (7003 2260 0002 9790 8829)
James E. Smith, Esq., Hearing Officer

WAIVER

I HAVE BEEN INFORMED OF MY RIGHT TO BE REPRESENTED BY COUNSEL AT THE ADJUDICATORY HEARING SCHEDULED FOR October 12, 2004. IF, AFTER HEARING, THE BOARD FINDS GROUNDS FOR DISCIPLINE, THE BOARD MAY:

- ISSUE A WARNING, CENSURE OR REPRIMAND;
- IMPOSE CIVIL PENALTIES;
- SUSPEND, REVOKE OR REFUSE TO GRANT OR RENEW A LICENSE;
- REFER TO THE DISTRICT COURT FOR FURTHER ACTION;
- IMPOSE ANY OTHER DISCIPLINE ALLOWED BY LAW.

I UNDERSTAND MY RIGHT TO BE REPRESENTED BY COUNSEL AND KNOWINGLY WAIVE THAT RIGHT. I HAVE CHOSEN TO REPRESENT MYSELF.

DATE

NAME OF LICENSEE

9/12/01

never sought reinstatement of his medical license in the State of Florida.

See "Exhibit B" attached to this Decision & Order.

3. Dr. Lazaro returned to Maine in 2003 and opened a practice specializing in the treatment of chronic pain and substance abuse. In 2004, he began working as a physician for Prison Health Services. See "Exhibit C" attached to this Decision & Order.

4. After receiving information from a physician who was concerned about patients he had referred to Dr. Lazaro for detoxification, the Board initiated an investigation into the Licensee's practice in July, 2004. See "Exhibit D" attached to this Decision & Order.

5. Investigation revealed that patients [REDACTED] and [REDACTED] visited Dr. Lazaro's office at various times in 2004 for either chronic pain or addiction problems. With each of them, Dr. Lazaro failed to take a medical history or vital signs. He did not undertake urine monitoring or perform a physical exam. Dr. Lazaro simply asked for one hundred dollars (\$100) cash and gave them a prescription for Suboxone. See "Exhibit E" attached to this Decision & Order.

6. Investigation also revealed that Dr. Lazaro engaged in sexual misconduct with three separate female patients: [REDACTED]; [REDACTED]; and [REDACTED]. Dr. Lazaro told each of these female patients to come to his office late in the evening with one hundred dollars (\$100) cash. Dr. Lazaro took no medical history or vital signs of these

three female patients, nor did he perform a regular physical exam. Instead, Dr. Lazaro asked each of the female patients to remove part or all of their clothing. He asked inappropriate questions about the patients' sex experiences. Instead of conducting a legitimate and medically necessary physical examination of these three women, Dr. Lazaro, under the guise of practicing medicine, had the women undress and then fondled the patients' breasts and either rubbed up against or touched the patients' genitals. See "Exhibit F" attached to this Decision & Order.

7. On September 14, 2004, the Board summarily suspended Dr. Lazaro's license, and ordered the issuance of complaints alleging multiple instances of unprofessional conduct, incompetence, prescribing drugs for other than therapeutic purposes and violations of Chapter 10 of the Board's Rules regarding sexual misconduct with patients. See "Exhibit G" attached to this Decision & Order.

8. On November 1, 2004, Dr. Lazaro executed a Consent Agreement that continued the emergency suspension. See "Exhibit H" attached to this Decision & Order.

9. On November 18, 2005, Dr. Lazaro pled guilty to theft by deception (Class D) in violation of 17-A M.R.S.A. § 354 for stealing more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000) worth of MaineCare funds from the State of Maine. A copy of

the judgment and commitment and criminal complaint is attached to this Decision & Order as “Exhibit I.”

10. A review of the criminal complaint for theft by deception to which Dr. Lazaro pled guilty indicates that he committed the crime over a period of time between March 2, 2004 and June 9, 2004, and pursuant to one scheme or course of conduct. In addition, the complaint indicates that Dr. Lazaro, pursuant to this scheme or course of conduct, intended to permanently deprive MaineCare of money through deception by knowingly providing false prescriptions to MaineCare recipients. A copy of the criminal complaint is attached to this Decision & Order as “Exhibit J.”

11. Title 17-A M.R.S.A. § 354 defines “theft by deception” as obtaining or exercising “control over property of another as a result of deception and with the intent to deprive the other person of the property.” See “Exhibit K” attached to this Decision & Order. In light of the nature of the criminal complaint, and the elements of the crime of theft by deception, the Board reasonably concludes that, on multiple occasions over time, Dr. Lazaro intended to deceive and steal from MaineCare by knowingly writing false prescriptions. Furthermore, the Board reasonably concludes that Dr. Lazaro’s scheme to deceive MaineCare by writing false prescriptions was premeditated and achieved by abusing his status as a licensed Maine physician.

12. On November 18, 2005, Dr. Lazaro pled guilty to three separate counts of unlawful sexual contact (Class D) in violation of 17-A M.R.S.A. § 255-A. The three victims of Dr. Lazaro's unlawful sexual contact were all patients who went to him seeking medical care, and who provided statements to the Board investigator regarding Dr. Lazaro's inappropriate sexual comments and contacts: [REDACTED]; and [REDACTED]. In addition, a review of the criminal indictment and/or criminal complaints indicates that Dr. Lazaro perpetrated his unlawful sexual contact on these female patients during a five-month period of time from April 2004 through August 2004. A copy of the judgment and commitments and criminal indictment/complaint(s) is attached to this Decision & Order as "Exhibit L."

13. Title 17-A M.R.S.A. § 255-A(1) provides that "a person is guilty of unlawful sexual contact if the actor intentionally subjects another person to any sexual contact and the other person has not expressly or impliedly acquiesced in the sexual contact." See "Exhibit M" attached to this Decision & Order.

14. Title 17-A M.R.S.A. § 251(1)(D) defines "sexual contact" as "any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or

offensive physical contact.” See “Exhibit N” attached to this Decision & Order.

15. Title 17-A M.R.S.A. § 35 defines “intentionally” as “a person acts intentionally with respect to a result of his conduct when it is his conscious object to cause such a result.” See “Exhibit O” attached to this Decision & Order.

16. In light of the nature of his criminal convictions for unlawful sexual contact and the foregoing definitions related to the crime of unlawful sexual contact, the Board reasonably concludes that it was Dr. Lazaro’s conscious object to touch the genitals of the three female patients in order to arouse or gratify his sexual desires or in order to offend them. Furthermore, the Board reasonably concludes that Dr. Lazaro abused his position as a Maine licensed physician in committing these sexual crimes against patients seeking his care. In short, Dr. Lazaro abused the trust placed in him by the Board and by his patients in order to gratify his own sexual desires or cause offense to his patients.

II. CONCLUSIONS OF LAW

1. Pursuant to Title 5 M.R.S.A. § 5301(2)(A) and (B) Dr. Lazaro’s criminal conviction for theft by deception (Class D) in violation of 17-A M.R.S.A. § 354 is a conviction which “involve[s] dishonesty or false statement” and/or “which directly relate[s] to the trade or occupation” of medicine. See “Exhibit P” attached to this Decision & Order.

2. Pursuant to Title 5 M.R.S.A. § 5301(2)(B) and (E) Dr. Lazaro's three criminal convictions for unlawful sexual contact (Class D) in violation of 17-A M.R.S.A. § 255-A are convictions which "which directly relate to the trade or occupation" of medicine and/or "involve sexual misconduct." See "Exhibit P" attached to this Decision & Order.

3. Pursuant to Title 5 M.R.S.A. § 5302 the Board concludes that Dr. Lazaro "has not been sufficiently rehabilitated to warrant the public trust." See "Exhibit P" attached to this Decision & Order. The Board makes this finding based upon: (a) the recency of the criminal convictions; (b) the fact that Dr. Lazaro intentionally and knowingly committed the crimes; (c) the fact that Dr. Lazaro committed the crimes over a period of time and constituted a continuous course of criminal conduct; (d) the fact that Dr. Lazaro abused his status as a licensed physician in order to commit all of the crimes; (e) the fact that all of his crimes involved patients and/or the practice of medicine; (f) the serious nature of the underlying criminal conduct itself; and (g) the fact that Dr. Lazaro perpetrated sexual offenses upon three separate female patients at three different times between March 2004 and August 2004.

4. Pursuant to Title 32 M.R.S.A. § 3282-A(2)(G) Dr. Lazaro's criminal convictions "involve dishonesty or false statement" and/or "relate directly to the practice of medicine." See "Exhibit Q" attached to this Decision & Order.


5. Pursuant to Title 32 M.R.S.A. § 3282-A(2), the Board has the authority to suspend or revoke a license pursuant to Title 5, Section 1004. See "Exhibit Q" attached to this Decision & Order.

6. Pursuant to 10 M.R.S.A. § 10004(1), this Board has the authority to revoke without hearing Dr. Lazaro's license to practice medicine in this State based upon his criminal convictions for theft by deception (Class D) and unlawful sexual contact (Class D). See "Exhibit R" attached to this Decision & Order.

III. ORDER

Based on the findings of fact and conclusions of law contained in Parts I & II, above, the Board by unanimous vote/~~majority vote (---)~~ 9-0 hereby **ORDERS** that the medical license of Juan C. Lazaro, M.D. is **REVOKED, effective immediately.**

Dated: 12-13-05


EDWARD DAVID, M.D., J.D.
CHAIRMAN, MAINE BOARD OF
LICENSURE IN MEDICINE

NOTICE OF RIGHT OF APPEAL

The said Juan C. Lazaro, M.D. may appeal this Decision and Order summarily revoking his license by filing a petition for review of final agency action in the District Court located either in the county of his residence or that of the Board pursuant to M. R. Civ. P. 80C within thirty (30) days of his receipt of the Decision and Order. The failure to file such a petition within thirty (30) days of receipt of this Decision and Order, may preclude any further possible appeal.