

**STATE OF MAINE  
BOARD OF OSTEOPATHIC LICENSURE**

**IN RE: ELLIOTT GRUEN, D.O.**        )  
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**CONSENT AGREEMENT**

The Board of Osteopathic Licensure (hereafter “the Board”), Dr. Elliott Gruen, D.O. and the Office of the Attorney General enter into the following Consent Agreement to resolve a pending investigation and pending application for renewal of Dr. Gruen’s license to practice osteopathic medicine.

**I. FINDINGS**

The parties agree that this Consent Agreement (“Agreement”) is based upon the following findings by the Board:

1. Dr. Gruen has been licensed to practice medicine in Maine since 1994 with a specialty in Psychiatry. Dr. Gruen has been employed with Community Clinical Services (“CCS”) for eleven years. In addition, Dr. Gruen also has a private practice located at 465 Congress Street in Portland, Maine.

2. Dr. Gruen has not been disciplined previously by the Board, nor has he been the subject of a Letter of Guidance.

3. K.W. was employed by CCS in August 2001 and was assigned, among other duties, to provide administrative support to Dr. Gruen.

4. Dr. Gruen and K.W. would flirt with each other in the presence of office staff and Dr. Gruen would on occasion massage K.W.'s shoulders while other staff was present.

5. Dr. Gruen admits that he engaged on a number of occasions in conversations of a sexual nature with K.W. on the phone and in person during office hours. Two staff overheard at least one of these conversations.

6. Dr. Gruen agreed to refill some of K.W.'s prescriptions on one or two occasions, in part so she would not become angry with him.

7. Sometime in December 2001 and January 2002, Dr. Gruen and K.W. engaged in a personal relationship of a physical nature on three occasions in his office.

8. The office manager at CCS reassigned K.W. to other duties in the office because she believed that K.W. was spending too much time with Dr. Gruen, which interfered with K.W.'s work and required other staff to assume some of her responsibilities.

9. Dr. Gruen initiated conversations of a sexual nature on a few occasions after K.W. indicated that she was no longer interested.

10. Dr. Gruen did not recognize the potential impact of his relationship on K.W., nor did he recognize that such a relationship could have the potential for an adverse impact on patient care or interfere with the duties or morale of office personnel.

11. The Board concludes that Dr. Gruen demonstrated unprofessional conduct, as defined by 32 M.R.S.A. § 2591-A (2)(F), by failing, as a psychiatrist, to recognize the potential adverse impact that engaging in a personal relationship with an office staff member within the office could have on patient care and the proper operation of a medical office practice.

Based on the above findings and conclusions, the parties agree to the following Sanctions and that Elliott Gruen, D.O.'s license to practice osteopathic medicine in Maine should be renewed subject to the following probationary conditions:

## **II. SANCTIONS**

### **Reprimand.**

The Board issues the following written reprimand to Dr. Gruen:

You are reprimanded for engaging in a personal relationship during office hours in such a manner that this relationship, and some of the sexual aspects of it, became known to other office staff. You failed, as a psychiatrist, not only to understand how this relationship interfered with the responsibilities of the employee and other office staff but you did not appreciate how this disruption to the operation of the medical practice could potentially have an adverse impact on patient care.

## **III. CONDITIONS OF LICENSURE**

### **1. Evaluation.**

- A. Dr. Gruen will submit to an evaluation by a psychologist acceptable to the Board or Case Reporter as soon as possible following the execution of this Agreement. Prior to the evaluation, the Board will provide the evaluator with a copy of this Agreement and other background information. The Board will provide Dr. Gruen with a copy of what is sent to the evaluator. Dr. Gruen will have an opportunity to provide additional written information to the evaluator but must provide the Board with a copy of this information.

- B. Dr. Gruen will assure that the professional performing the psychological evaluation provides a comprehensive report to the Board **within three (3) months of the execution of this Agreement.**
- C. The purpose of this evaluation and report is to assess and provide guidance to the parties regarding the following:
1. The factors that contributed to Dr. Gruen engaging in a personal relationship in the office setting, as described in the Findings to this Agreement, and his failure to recognize the impact on the employee and other employees, and the potential that this relationship could adversely affect patient care;
  2. Whether there are factors that continue to make Dr. Gruen vulnerable to engaging in similar behavior in the future;
  3. Dr. Gruen's current understanding of why he engaged in this behavior and of the impact on K.W., other employees and patient care; and
  4. Recommendations regarding what needs to be done to avoid the repetition of similar behavior, including but not limited to, whether Dr. Gruen needs to obtain education (other than that already required by this Agreement), treatment or consultation and, if so, the type, duration and frequency of the education, treatment or consultation.
- D. Dr. Gruen agrees to provide appropriate releases so that the Case Reporter and the Board's Attorney can speak directly with the evaluator regarding any issues

related to the evaluation or report.

- E. Dr. Gruen agrees that he will work in good faith to implement the recommendations made by the evaluator and by the Board based on the evaluation. Dr. Gruen will present a detailed plan for implementing these recommendations to the Board for prior approval no later than two months after receipt of the recommendations. Dr. Gruen agrees that once approved, the implementation plan will be automatically incorporated into this Agreement.

2. **Education.**

- A. **Within eight (8) months of the execution of this Agreement**, Dr. Gruen must attend an educational program approved by the Case Reporter of at least ten (10) hours duration regarding issues related to ethics and professional boundaries. Dr. Gruen must provide the educational program with a copy of this Agreement before the commencement of the program.
- B. Dr. Gruen will assure that the Board promptly receives a report from the educational program that describes Dr. Gruen's participation in the program, his level of understanding and appreciation for the principles taught and whether he has satisfactorily completed the program. Dr. Gruen will sign releases, as needed, if the Board requires additional written information from the program or needs to speak with program personnel regarding any aspects of the report.
- C. This education will be in addition to the 100 hours that Dr. Gruen requires for biennial renewal of his license.

3. **Waiver of Physician/Therapist/Patient Privilege.**

A. Dr. Gruen agrees that, for the purpose of monitoring and enforcement of this Agreement, the Board, its agents and the Office of the Attorney General shall have access to all confidential information, assessments, evaluations, diagnoses, records, reports, test results and data relevant to this Agreement. Dr. Gruen also agrees that the Board or its authorized agents or the Office of the Attorney General may communicate orally with professionals involved in testing, care, monitoring and treatment of Dr. Gruen in connection with this Agreement. Dr. Gruen agrees that he will promptly sign any and all authorizations required by the Board to monitor and carry out the purposes of this Agreement.

B. Dr. Gruen waives his right to claim the physician-patient, or therapist-patient, privilege and any statutory or common law right to confidentiality, in any proceedings that may be undertaken for the purposes of enforcement of this Agreement or any amendments thereto. This Condition is not intended to waive any attorney work product or attorney/client privilege.

4. **Notice of Consent Agreement.**

**Within two weeks** after the execution of this Agreement, or after any amendments thereto, Dr. Gruen shall provide a copy of this Agreement and any amendment, to:

- A. Any current employer(s) for whom he performs medical services as a physician or does work which directly or indirectly involves patient care;
- B. Any professional providing treatment related to this Agreement;
- C. Any other state medical licensing board that currently licenses Dr. Gruen or with whom Dr. Gruen files an application for a license.

5. **Costs.**

A. Dr. Gruen agrees to reimburse the Board for all investigative costs incurred prior to the execution of this Agreement, in the amount stated on the invoice provided to him prior to the time he executes this Agreement. He must reimburse the Board by **January 1, 2007**. Dr. Gruen shall pay the latter costs by cashier's check or money order made out to the "Board of Osteopathic Licensure".

B. Dr. Gruen will be responsible for all costs resulting from the carrying out or enforcement of this Agreement, pursuant to 10 M.R.S.A. §8003-D.

6. **Amendments.**

A. Requests for amendments shall be submitted to the Board in writing and supported by professional opinions, if appropriate and available.

B. Requests for amendments will not suspend any obligations under this Agreement. Dr. Gruen will be expected to comply with the terms of the Agreement until his request is acted upon favorably by Board vote and approved by the Office of the Attorney General.

C. Amendments will be decided in the discretion of the Board, with or without a hearing, and must have the approval of a representative of the Attorney General. There will be no appeal from the discretionary decisions regarding amendments of this Agreement.

D. Any action by the Board seeking to increase the conditions of licensure will be taken only after hearing, unless allowed by law, this Agreement or by subsequent agreement of the parties.

E. Except for good cause, amendments will not be considered by the Board more

frequently than every six months.

7. **Term of Board Order.**

This Agreement and Board Order regarding probationary license will terminate three (3) years from the date that Dr. Gruen's implementation plan is approved by the Board, provided Dr. Gruen has completed all of the requirements of his Agreement, any amendments, and the implementation plan and no grounds for discipline exist at the time set for termination. If grounds for discipline exist at the time set for termination or if there have been repeated instances of non-compliance during the term of the Agreement, Dr. Gruen agrees that he will negotiate in good faith a reasonable extension to this Agreement beyond the three (3) year term.

8. **Notices.**

The Board can be reached at:

142 State House Station  
Augusta, Maine 04333-0142  
(207) 287-2480  
Fax: (207) 287-3015  
E-mail: [susan.e.strout@maine.gov](mailto:susan.e.strout@maine.gov)

Dr. Gruen can be reached at:

100 Campus Ave.  
Lewiston, Maine 04240  
Work: (207) 777-8974

Dr. Gruen agrees that at or prior to the execution of the Agreement he will provide the Board's Executive Secretary with his home number, his cell phone and/or beeper number, and his e-mail address or fax numbers, if any. This contact information, to the extent that it is not generally available to the public, will be kept confidential and used by the Board only for the



purposes intended in this Agreement.

Dr. Gruen further agrees that he will promptly notify the Board if he changes address or any of the methods of contacting him identified in this Condition.


#### **IV. VIOLATION OF CONSENT AGREEMENT**

A. General. Dr. Gruen agrees that, if he fails to meet any of the obligations of this Agreement, any amendments thereto or his implementation plan, the Board may impose by agreement, or after notice and an opportunity for hearing, any of the sanctions found in Title 10 M.R.S.A. § 8003 and Title 32 M.R.S.A. § 2591-A of this Agreement.

B. Failure to Meet Reporting and Time Requirements. Dr. Gruen agrees that if he fails to meet any of the reporting or other time requirements set out in this Agreement (without having requested an extension prior to the due date and having that request granted by the Board), the Board may, in its discretion, automatically and without the need to hold a hearing, assess Dr. Gruen a fine of \$100 for each month, or portion of a month, that he is out of compliance with the reporting or other time requirement set out in this Agreement, any amendments thereto, or his implementation plan. Dr. Gruen will be notified of the assessment of the fine in writing by the Board. Dr. Gruen must pay the fine to the Board within 30 days of receiving notice that the fine was assessed. He must do so by cashier's check or money order made out to "Treasurer, State of Maine." The Board's decision not to impose this sanction in one instance of noncompliance with a reporting or other time requirement does not constitute a waiver of the Board's right to impose a fine regarding a subsequent violation of the same reporting or other time requirement.

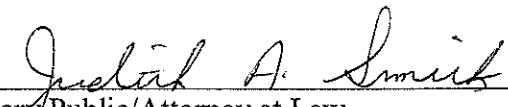
I, ELLIOTT GRUEN, D.O., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING MY RENEWAL APPLICATION AND THE INVESTIGATION UNDERLYING THIS CONSENT AGREEMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING ANY PORTION OF THIS AGREEMENT. KNOWING THIS, I SIGN IT 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. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 7/6/06

  
Elliott Gruen, D.O.

STATE OF MAINE  
Cumberland, SS.

Before me this 6<sup>th</sup> day of July, 2006, personally appeared Elliott Gruen, D.O., who after first being duly sworn, signed the foregoing Consent Agreement in my presence or affirmed that the signature above is his own.

  
Notary Public/Attorney at Law  
My commission expires:

JUDITH A. SMITH  
MY COMMISSION EXPIRES  
APRIL 1, 2010

**BOARD ORDER**

IT IS HEREBY ORDERED by vote of the Maine Board of Osteopathic Licensure that the application for renewal of the license to practice osteopathic medicine in the State of Maine, submitted by Elliott Gruen on July 10, 2006, is approved, subject to the terms and conditions of the Consent Agreement signed by him on July 6, 2006, which are incorporated herein by reference.

STATE OF MAINE  
BOARD OF OSTEOPATHIC  
LICENSURE

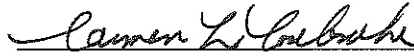


Board Chair

Dated: July 13, 2006.

Approved by:

STATE OF MAINE, OFFICE OF  
ATTORNEY GENERAL



Carmen L. Coulombe  
Assistant Attorney General

Dated: July 13, 2006

**STATE OF MAINE  
BOARD OF OSTEOPATHIC LICENSURE**

**IN RE: ELLIOTT GRUEN, D.O.**     )  
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**FIRST AMENDMENT TO  
CONSENT AGREEMENT**

The Board of Osteopathic Licensure (hereafter “the Board”), Dr. Elliott Gruen, D.O. and the Office of the Attorney General agree to amend Section III, Condition 2, in order to extend the timelines for obtaining the continuing medical education.

**Section III, Condition 2, is replaced with the following:**

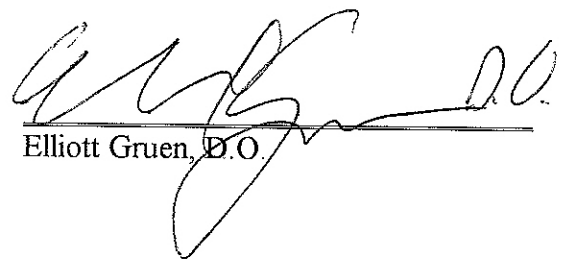
**2. Education.**

- A. Dr. Gruen must **complete** an educational program approved by the Case Reporter of at least ten (10) hours duration regarding issues related to ethics and professional boundaries **by May 1, 2007**. Dr. Gruen must provide the educational program with a copy of this Agreement before the commencement of the program.
  
- B. **Within two months of the completion of the program**, Dr. Gruen will assure that the Board receives a report from the educational program, that describes Dr. Gruen’s participation in the program, his level of understanding and appreciation for the principles taught and whether he has satisfactorily completed the program. Dr. Gruen will sign releases, as needed, if the Board requires additional written information from the program or needs to speak with program personnel regarding any aspects of the report.

C. This education will be in addition to the 100 hours that Dr. Gruen requires for biennial renewal of his license.

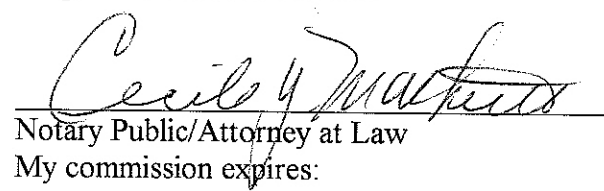
I, ELLIOTT GRUEN, D.O., HAVE READ AND UNDERSTAND THE FOREGOING FIRST AMENDMENT TO CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING I WAIVE CERTAIN RIGHTS INCLUDING THE RIGHT TO FURTHER HEARINGS REGARDING THIS AMENDMENT. I ALSO WAIVE THE RIGHT TO APPEAL TO THE COURT REGARDING THIS AMENDMENT. KNOWING THIS, I SIGN IT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS FIRST AMENDMENT, TOGETHER WITH THE CONSENT AGREEMENT, CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN, OR OTHERWISE. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated: 3/12/07

  
Elliott Gruen, D.O.

STATE OF MAINE  
Andrew J. Goss

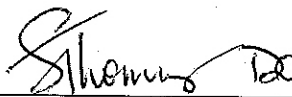
Before me this 12th day of March, 2007, personally appeared Elliott Gruen, D.O., who after first being duly sworn, signed the foregoing First Amendment to Consent Agreement in my presence or affirmed that the signature above is his own.

  
Notary Public/Attorney at Law  
My commission expires:

**BOARD ORDER**

IT IS HEREBY ORDERED by vote of the Maine Board of Osteopathic Licensure to amend the Consent Agreement regarding Elliot Gruen, D.O. in accordance with the terms and conditions of the First Amendment to Consent Agreement signed by Dr. Gruen on *March 12*, 2007, which are incorporated herein by reference.

STATE OF MAINE  
BOARD OF OSTEOPATHIC  
LICENSURE



Board Chair

Dated: *March 14, 2007*

Approved by:

STATE OF MAINE, OFFICE OF  
ATTORNEY GENERAL



Carmen L. Coulombe  
Assistant Attorney General

Dated: *March 16, 2007*



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
BOARD OF OSTEOPATHIC LICENSURE  
142 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0142

JOHN F. GADDIS, D.O.  
BOARD CHAIR

SUSAN E. STROUT  
EXECUTIVE SECRETARY

March 14, 2008

Elliott Gruen, D.O.  
100 Campus Avenue  
Suite 205  
Lewiston ME 04240

Re: Termination of Consent Agreement

Dear Doctor Gruen:

At its meeting yesterday, March 13<sup>th</sup>, the Board of Osteopathic Licensure reviewed, as it does on a monthly basis, all current Consent Agreements for compliance issues, etc.

This will confirm that following their review, the Board voted to terminate your Consent Agreement, effective immediately.

On behalf of the Board, thank you for your cooperation and compliance with the terms of your Agreement.

Please don't hesitate to contact me at the number listed below if you have any questions at all.

Sincerely,

*Susan E. Strout*

Susan E. Strout  
Executive Secretary

cc: Carmen L. Coulombe, Assistant Attorney General  
Gary E. Palman., Case Reporter